The Solicitors' Journal.

LONDON, APRIL 25, 1863.

LAST SESSION a select committee was appointed by the House of Commons to inquire into the operation of the present system of payment of the expenses of prosecutions. The committee, which was mainly composed of country gentlemen, sat for ten days, and took a great deal of voluminous evidence, which is to be found in the report that has been printed. They have not, however, felt themselves justified in offering any specific recommendations founded on the evidence. Mr. Sotheron Estcourt, however, presented to the committee a draft report, which, although rejected by a majority, is included in the blue book. It proceeds upon the principle that, although the Government scale ought to be uniform for all persons and all jurisdictions, yet that the local authorities should have the power and responsibility of adopting a scale of allowances suited to the habits of their own people, and of charging on their own local funds whatever they may find it necessary to add for the sake of justice, beyond the average applied to the whole of the rest of the kingdom. The greater part of the evidence, of course, related to the remuneration of witnesses, but the report contains some important information touching the scale of allowances for conducting prosecutions, which is notoriously insufficient. Mr. John Marsden, who has been solicitor to the magistrates for the West Riding of Yorkshire, for twenty-one years, stated that, generally speaking, he abstained as far as possible from undertaking prosecutions, upon the ground that they did not remunerate him, and that he only took up such cases as the county directed, or as the chief constable felt to be too much beyond his strength to conduct himself. Mr. J. Hemp, the deputy-clerk of assize on the Oxford circuit, who has had great experience in criminal business, also gave some useful information on this subject. He insisted upon the value of the recommendation made by the commissioners of 1836, which was that in every case there should be proper professional assistance, and pointed out some serious evils resulting from the present system. By way of illustration, he mentioned the regulations which he knew to be in force in the county of Surrey. They provide that no costs shall be allowed for prosecuting by counsel and attorney unless a prisoner is defended by counsel. "I heard the other day," says Mr. Hemp, "of a case in which a man was charged with embezzling a large sum of money extending over perhaps sixty or seventy payments, and it was necessary that a professional man should be employed to select a certain number so as to save trouble, and also expense, and, I think, time. Nine cases were selected, and three indictments were preferred. It happened after the case was over, the man not having been defended, upon an application being made for the costs of employing an attorney and counsel, that the answer was, 'This comes within our rules; the man was not defended; and therefore you can't be paid.'" The result of such a system cannot be otherwise than highly encouraging to criminals. Mr. Hemp also gave a strong opinion against the plan adopted at many sessions, of the clerk of the peace handing the depositions to counsel without the intervention of an attorney. Everybody conversant with the subject is aware of the miscarriage of justice which frequently takes place in consequence of this mode of conducting prosecutions. It often happens that a defence is started at a trial on behalf of the prisoner either by himself in person, or by his counsel, and that the case frequently breaks down from the want of an attorney to instruct the prosecuting counsel how to meet the defence. In such cases the prosecuting counsel is completely at a loss for the want of such instructions and assistance as only an attorney at his elbow could give. It is strange, however, that notwithstanding the strong evidence on the subject which was placed before the committee, and the numerous presentments at assizes, and memorials to the Home Office, which they had also before them, the committee was unable to come to any resolution upon the question of the remuneration either of witnesses or of lawyers.

Sir George Grey has lately issued a paper from the Home Office, increasing the remuneration in certain cases of constables and officers of gaols, but it leaves wholly untouched the question of the professional expenses of prosecutions.

MANY OF THE NEWSPAPERS are up in arms about the judgment of the Court of Queen's Bench, in the recent case of *Campbell* v. *Spottiswoode*. The *Times* remarks—

It is agreed upon all hands, and has been proclaimed again and again from the judicial bench, that "fair comments" in a journal or periodical are not within the law of libel; but then what is to be the test of "fairness?" Suppose, for instance, that a public man is guilty of an act improper in itself, fatal in its consequences, and so devoid of excuse or palliation that charity itself could invent no creditable motive for it. There can be no doubt that a journalist may characterize the act itself as it deserves, may point out its ruinous tendency, and may publish every circumstance from which an average reader would infer an infamous motive. He may even expressly assign this motive if he can prove it as a fact, and that although he may himself be secretly actuated by personal spite, and not by a sense of public duty. On the other hand, it is quite possible that his comments may be made *bonâ fide*, and out of a regard for the public welfare, and yet may be incapable in their very nature of legal proof. Must a writer be silent in such a case, lest he make himself amenable to an action for libel? Is malice to be presumed against him if he should honestly draw a reasonable, though not a demonstrable, conclusion from the materials before him? Is his general object and *animus* to count for nothing; and is the inquiry whether the publication be libellous to be conducted without regard to anything but its possible effects on the interests of the plaintiff?

It is, no doubt, practically impossible for writers in the public press to discharge their functions effectively, if they are not privileged in making fair comments upon public characters or the passing occurrences of the day, where they may be unable to adduce conclusive testimony as to the truth of their allegations or assumptions. It is certainly a question of grave importance, whether in the absence of malice or *mala fides*, fair probability or reasonable cause, as a foundation for the opinion of the writer, ought not to be an answer to an action for libel by a person who may be injured by such observations. As the *Times* well puts it—

No privilege is wanted where truth can be successfully pleaded. On the other hand, no privilege is demanded where malice can be established against the writer, or inferred by the jury from the tone and spirit of the composition. It is where a public critic, with the best and purest intentions, has injured the good name of a public man that the question arises. It may seem right, perhaps, to some that the aggressor, as they would call him, should bear the whole risk, and we do not deny that the claim of immunity might be carried too far. But let any one consider how difficult, if not impossible, it is to discuss conduct or opinions without discussing their tendencies, and to expose tendencies without imputing motives, and he will confess that it is not so easy to render the Press harmless to individuals, and yet to leave it powerful for good. Nor should it be forgotten that the very reflections which are the hardest to substantiate are precisely those which least damage the object of them. If a writer proposes to found his accusations on special knowledge, he may well be called upon to produce his witnesses, but when he openly appeals to documents which the complainant has ostentatiously put before the world, he does but invite others to adopt a more or less charitable construction of what is already public. This makes a great difference, and if the law of libel is to be modified at all, we cannot but think that this distinction is quite as cardinal as that which the Court of Queen's Bench draws between stigmatizing acts and attributing motives.

The judgment of the Court of Queen's Bench in

this case is not quite consistent with some dicta of Chief Justice Erle in *Paris* v. *Levy*, 2 F. & F. 71, 30 L. J. C. P. 11, and the question raised in *Campbell* v. *Spottiswoode* will some day or other have to be settled by the Legislature.

A SELECT COMMITTEE was appointed by the House of Lords early in the present session, to inquire whether it was proper that the power already given to landowners to charge their estates with terminable annuities in order to raise money for the improvement of their land by draining and building, should be extended so as to enable them to raise money on similar terms for the purpose of taking shares in railways calculated to increase the value of their property; and further to inquire under what conditions and limitations such power ought to be granted, if at all. The select committee has recently made its report, which is as follows:—

I. That the evidence laid before the committee proves that both the letting and selling value of land is in general greatly increased by its having the advantage of easy access to a railway.

II. That the additional value conferred upon land by the construction of a railway is capable of being estimated by experienced land agents and valuers.

III. That there is frequently great difficulty in the present state of railway affairs in raising money for the construction of a railway intended to benefit an agricultural district, unless a portion, at least, of the shares are taken by the owners of the land to be benefitted by the line.

IV. That landowners have, in consequence, become, in some cases, large subscribers to railways passing through the district in which their property lies, and would, probably, have contributed much more largely to these undertakings but for the obstacles opposed by the present state of the law to their raising money for the purpose.

V. That it is therefore desirable to enable landowners to raise money for the purpose of taking shares in railways calculated to improve their property, on the following conditions:

1. The charge to be imposed upon land for the purpose of taking shares in a railway should be in the form of a rent-charge for a term not exceeding twenty-five years.

2. The amount of the rent-charge to be so imposed upon an estate should in no case exceed the amount of the increased annual value which the Enclosure Commissioners may be satisfied that the construction of the railway will confer upon it.

3. The amount actually paid for shares in the railway, and for the necessary expenses incurred in the transaction, should be certified to the Enclosure Commissioners before they sanction imposing upon the estate a rent-charge sufficient to pay the interest on the sum borrowed for those purposes, and also to pay off the capital in a term not exceeding twenty-five years.

4. No such rent-charge should be imposed upon land until it has been shown to the Enclosure Commissioners that the railway has been completed and opened for traffic.

5. The shares so purchased should remain in the hands of the Enclosure Commissioners until the rent-charge shall have expired, when they shall be delivered to the person then entitled to the estate; and while the shares are held by the Commissioners the dividends upon them should be received by the owner of the estate.

VI. That as the Enclosure Commissioners have been able satisfactorily to discharge the duty of superintending the outlay of money borrowed for draining and other improvements upon land, there is no reason to doubt that they would equally be able to perform a similar duty with respect to money borrowed for railways.

VII. That the powers now possessed by landowners to charge their estates with money for various improvements have been granted by various Acts of Parliament, some of which are public Acts, but more are private Acts obtained by different companies, and it is desirable that one general public Act should be passed, revising and consolidating the provisions of these different Acts, and including the grant of power to raise money for such railways as may be authorised by Parliament. The passing of such a general public Act has been already recommended by several committees, and ought not to be any longer delayed.

VIII. That as one railway bill, at least, is now before Parliament, containing clauses giving power to landowners interested in the proposed line to borrow money in the manner above described for the purpose of taking shares in the undertaking, if such bills should be found in other respects to deserve the sanction of Parliament, it would be unadvisable to exclude from it clauses embodying the above principle, since this might expose the promoters of the bill to the loss of the present session.

The minutes of evidence taken before the committee is appended to the report. The *Times* has an article on the subject from which we extract the following,—

Thus recommended, the proposition to enable tenants for life to mortgage their successors' estate in order to purchase railway shares obtains great practical importance. The suggestion is that there are many poor estates in the North which might become rich estates if a railway were passed through them, but that at present no one is interested in making such a railway but the owner of the estate. He, however, it is added, cannot make it, because he is only tenant for life, and cannot mortgage the estate to raise the money to make the railway. The obvious answer to this is that every railway must be a speculation. The railway might never be made, or might never pay, or might never answer, even to work, and the estate might melt away in pursuing a railway profit, as many estates have melted away while their owners sank shafts and dug canals in pursuing a mining profit. The next person entitled might find that his predecessor had enjoyed all the excitement of the speculation, and had left him to digest the loss. The committee of peers recognize these objections, and meet them by three limitations. The first is that only so much money shall be raised upon the estate to promote the railway as the Enclosure Commissioners shall say, after considering the evidence of valuers, will be clear profit to the estate arising alone from the new advantages produced by the railway. Now, a valuer will make a shrewd guess, more or less successful, upon any subject of possible increase or diminution in value; but a new railway seems to be of all others the most loose and shifty ground for a valuation in pounds, shillings, and pence of its effect upon the rental of an estate. This is the weak point of the project, for if we grant that a reliable valuation can be made, in money, of the prospective advantages of a railway to an estate, the case of Lord Grey and his brother peers is, to a certain extent, sustained. As the sum spent upon the railway shares is not to exceed the value of the prospective advantages the railway will bring, the railway shares will be all clear gain; and, whether worth much or little, they cannot be a loss to the inheritance. The second limitation is, that the mortgage shall not last beyond twenty-five years—so that the possessor of the estate will, *if the valuation turn out to be correct and the railway continue in action*, pay about six per cent. for twenty-five years, and then have the benefit of the railway for his estate and also the shares to put in his pocket, be the latter, as we said before, worth much or little. The third limitation is, that the mortgage shall not be sanctioned until the railway has been made and opened. This last limitation gets rid of the perplexing difficulty as to the possibility of the estate becoming charged for a mere project which never comes to maturity; but, on the other hand, it may be asked how a railway project can be encouraged by a promise of taking shares after the railroad has been opened. This seems like an offer to back a horse after he has passed the winning-post. There is, however, no doubt, under all this a machinery we are not permitted to see. One of these capitalist companies will probably advance the money to make the railway upon the promise of being reimbursed from the produce of the future mortgages of the estates through which it passes; and this suggestion will explain the recommendation of the Committee that the private Acts obtained by different drainage and improvement companies shall be revised and consolidated in one general Act. Such is the scheme now put forward by the committee of peers. We cannot expect the general public to follow us in our exposition of it, but it is of such national importance that we have thought it urgent to invite attention to it, and to offer such explanation of it as we are able to afford. We desire to express no opinion at this moment of the scheme which has come forth under such high authority; but we are anxious that it should be closely examined and candidly discussed. If it turn out to be a blunder, it may be a very fatal blunder; if it be sound, its value to some districts in the North of England and Scotland can scarcely be overrated.

A GREAT CAB CASE was decided by the Court of Queen's Bench on Wednesday last. As the question at issue has often been discussed before metropolitan magistrates, and, we believe, has been decided by them in different ways, it may be worth mentioning here. A

cabman was convicted for taking more than his fare. There were three adult persons and one child, an infant in arms, in the cab, and the 16 & 17 Vict. c. 33, provides that "when more than two persons shall be carried inside of a hackney carriage, one sum of sixpence is to be paid for the whole hiring in addition to the above fares. Two children under ten years of age to be considered as one adult person." The simple point in this case was whether the cabman was entitled to charge the extra sixpence for one child. The magistrate considered the cabman was not entitled to make the charge, and he was therefore convicted of an overcharge. His counsel contended that the effect of the Cab Act was only to provide that two children under ten should be deemed one person, but not that one child by itself should not be a person. No provision, in short, was made for the case of a single child, as a fraction of a person. There might be one adult and two children and they would be counted as two persons. There might, again, be four children under ten, counted as two persons. But the case of two or more adults and a single child was the same as if the child were an adult. It was not provided for by the Act. Three adults and a single child were four persons. Four adults and a child were five persons. So three children were two persons, five were three persons, and so on. The Court of Queen's Bench appears to have been sadly puzzled by this subtle argument, but ultimately decided that the cabman was right, and the magistrate wrong.

Lord Cardigan's Motion before the Court of Queen's Bench, on Thursday, for a criminal information against Major-General Calthorpe, raises an important question on the effect of a considerable lapse of time in such cases. Lord Cardigan complained of certain passages contained in a book which was published so long ago as 1857, but which it was said had recently acquired greater importance from the interest excited by the publication of another work. The rule of the Court is that every application for a criminal information must be made reasonably soon. Wherever there has been delay the Court is astute in demanding explanations of it. It has been frequently held in cases of libel that the delay of a few months may bar the right to obtain a criminal information. It has been laid down as a general rule that leave to file a criminal information should be applied for in a reasonable time before the expiration of the second term after the publication; but this rule is not absolute, and the Court will not enforce it where the delay is satisfactorily accounted for. In the recent case, however, a distinction was drawn between the publication of an article in the newspaper and the continuous publication of a book of permanent interest, copies of which were being sold continuously on to the period when the rule was applied for. After considerable discussion, a rule *nisi* was granted, on the express understanding, however, that it might be discharged on the ground of delay.

Metropolitan Justice appears to have peculiar charms for provincials, and the London jurymen are beginning to cry out against the preference which is shown to them. On Thursday last a London jury had to decide in a personal quarrel between two Yorkshiremen. Mr. Justice Wightman protested against such a case being tried at Westminster instead of York, and a similar protest is constantly heard in the Metropolitan Courts. The remedy for the grievance is to be found in the Jurors' Bill now before Parliament, which provides for the payment of jurors where the cause of action did not arise in the county from which the jury is summoned.

Mr. Gladstone's proposal to impose the Income-tax upon Charities has already elicited considerable opposition from some of the leading Charitable Institutions of the metropolis. The Governors of St. Bartholomew's Hospital and of St. Thomas's Hospital have presented petitions to the House of Commons against the measure. In the former petition it is stated that the direct and immediate effects of this unexpected addition to the burdens on the revenues of St. Bartholomew's Hospital (if the tax be taken at seven-pence in the pound) would be to withdraw a sum of not less than £1,050 a year from the fund exclusively applicable for the support and relief of the sick poor, and that the inevitable result would be that several hundred in-patients and several thousand out-patients must annually be excluded from the benefits of the Hospital. An able paper containing a number of "reasons" against Mr. Gladstone's proposition has been put into circulation. The arguments which it advances seem to be unanswerable upon any grounds except expediency or necessity.

The Corrupt Practices at Elections Bill has reached the House of Lords with a clause introduced into it which should be generally known. The clause provides that where a commission of inquiry shall be issued, and shall report that bribery, treating, or other corrupt practices extensively prevailed at any election of a member to serve in Parliament, the costs of the inquiry shall fall upon the ratepayers of that county or borough. This may save some thousands of pounds to the national purse in the year after the next general election.

The Lord Chancellor received a deputation from the Law Amendment Society, on Tuesday, who waited upon his Lordship, to call his attention to the present system of law reporting. The deputation consisted of Mr. T. E. Headlam, Mr. W. T. S. Daniel, and others. The deputation referred to the reports of the special committee of the society; the resolutions which had been adopted at their general meetings in favour of reducing the present reports into some systematic order, and of adopting in future a better plan of reporting the decisions of the courts of common law and equity. His Lordship adverted to the great difficulties in which the subject was involved, the conflicting interests which had to be conciliated, the schemes which had been propounded, and the general working of the present system. His Lordship stated that the subject was so important, and surrounded with so many difficulties, that he should consider the interview as preliminary, and that upon some future occasion he would receive the deputation again.

The Lord Chancellor has appointed Mr. C. H. Keene, of the Equity bar, to be a registrar of the Court of Bankruptcy in London, in the room of Mr. William Vizard, resigned. Mr. Keene was some weeks ago temporarily appointed deputy-registrar, to discharge Mr. Vizard's duties during the illness of that gentleman. Mr. Keene's present appointment is permanent. We believe that he will act as the registrar of appeals, but that his duties will not be confined to appellate business. Mr. Keene has had considerable experience as an equity barrister, and is well qualified for the office.

Mr. J. Bruce Norton, the well-known barrister of the Madras Presidency, has been appointed to the office of Advocate-General, vacated by the Hon. T. S. Smith, who has left for England on sick leave. Mr. Norton's antecedents at the Madras bar point him out as the most qualified person to fill that position. His works on Indian law are text-books throughout the three Presidencies.

Mr. William Hackett, of the Equity Bar, has been appointed Chief Justice of the Supreme Court of her Majesty's Courts and Settlements, and Assessor to the Native Chiefs, within the protected territories on the Gold Coast. Our readers will remember Mr. Hackett as the contributor two years ago of a series of papers containing translations from reports of decisions before foreign tribunals in cases interesting to English lawyers.

The Hon. Mr. Justice Herbert will retire from the

Bench of the High Court of Bombay, in May next. It is not yet known who will succeed him.

Mr. Thomas Lewis Ingram has been appointed her Majesty's Advocate and Police Magistrate at the Gambia.

Mr. F. D. Faithfull, of the firm of Faithfull & Keir, solicitors, High Court, Bombay, has been appointed Judge of the new Small Cause Court at Bilgaum.

NAVAL COURTS OF INQUIRY.

The Naval Discipline Acts of 1860 and 1861 reconstructed the Articles of War and general laws for the government of the navy. The offences against these statutes comprise not only those which are exclusively naval, and are therefore punishable only under the Articles of War, but also offences punishable by ordinary law. A recent discussion in the House of Lords calls attention to the unsatisfactory mode in which the former class of cases is sometimes dealt with by the Admiralty. We have from time to time called attention to the disregard of the first principles of law and of natural justice, which generally characterizes the conduct of courts martial, and now we believe, for the first time, during a considerable period, public attention is called to the still more arbitrary and unjustifiable character of the procedure in "Courts of Inquiry."

There is no doubt that the practice of holding such courts is very ancient, and has received express judicial sanction. The power to institute both Naval and Military Courts of Inquiry is the prerogative of the Crown, delegated in the one case to the Board of Admiralty, and in the other to the Commander-in-Chief of the Army. A court of inquiry resembles in some respects a grand jury, and in others the preliminary investigation before a magistrate in criminal cases. It differs from both, however, in the circumstance that proceedings before courts of inquiry are neither compulsory nor on oath. The commissioners appointed to inquire examine the person whose conduct is impugned, as well as the witnesses on either side, but there is no power to compel the attendance or the answers of witnesses; and there can be no doubt that upon the whole no more unsatisfactory tribunal could be contrived for the investigation of any case involving serious results. Courts of inquiry have certainly been found useful for adjusting disputes and reconciling differences between officers, and for investigating matters that scarcely deserve the ordeal of a court martial. But we are not surprised that some of the law lords in the recent debate in Parliament should have protested against such a procedure in a case that was properly the subject for a court martial, which, although not the most satisfactory tribunal, is yet governed by certain rules, is conducted in public, and excludes the admission of unsworn testimony. The facts which gave rise on Monday evening to the discussion in the House of Lords are as follows:—On the 2nd of October, 1862, her Majesty's ship *Vigilant* got ashore on the Gun Fleet Shoal, at the mouth of the Thames. The Admiralty directed a court of inquiry to be held at Sheerness, and Lord Elphinstone, the captain of the vessel, was summoned before the court. His complaint is that, upon making his statement, he was desired to withdraw, and not allowed again to appear, although the inquiry lasted five hours; neither was he permitted to know the evidence of or to put any questions to the witnesses who were examined. He was subsequently censured severely, and having protested was then offered a trial by court martial, which he declined, upon the ground that the Admiralty had prejudged his case, an opinion in which most of the peers who took part in the debate fully coincided. Lord Derby said, "the real complaint was that an officer had been condemned and punished on the finding of a Court before which he was not allowed to appear, and on the evidence of witnesses whom he had no opportunity of confronting or examining." Lord Chelmsford and Lord Cranworth also insisted upon the same view. The various discussions which have taken place of late years upon the proceedings of military and naval courts will probably have the effect before long of bringing about the desired change in these tribunals. We have always advocated that they should be to some extent assimilated in their constitution and procedure to our ordinary courts. At present the officiating judge-advocate in a court martial is hardly ever a lawyer, and his duties are of a very mixed, and indeed of a somewhat conflicting character. He not only summons the members of the court, but also the witnesses on both sides, and upon him devolves the duty of serving the accused with a copy of the charges against him. It is his function also to act as the officer of the court in reading those charges, and in administering the prescribed oath to the witnesses. He is never properly the prosecutor, yet in the prosecutor's absence he acts for him by examing his witnesses in chief, and at all times the judge-advocate is equally privileged with the Court to put further questions. On the other hand it is his duty to read the defence of the accused if required by him to do so. He is also the assessor of the court; and although, as we have said, is himself generally not a lawyer, is supposed to advise the Court on all points of law or practice which may arise, and to make such suggestions touching the conduct of the cause as he may think advisable where there is no prosecutor present.

"When there is no prosecutor present," says Mr. Thring,* "the judge-advocate conducts the proceedings in support of the charge before the court on the part of the public. For the defence, 'he ought to render such assistance to the accused as a judge in a criminal case would afford to a prisoner undefended,' namely, to examine the witnesses on every point calculated to prove exculpatory of the accused; 'for it is the duty of the judge-advocate to prevent, as far as in him lies, injustice from being done.' If any legal question of great doubt and difficulty arise during the trial, it would be the duty of the judge-advocate (after advising the Court on their judgment at the time) to lay the point before the president for transmission through the proper channel to the Admiralty, for the consideration and ultimate determination of the Board and their legal advisers."

The judge-advocate has also to take down in writing the evidence given by each witness; when a decision has been come to, it is his duty to draw up the sentence, and, in fact, he pronounces it. It is necessary only to state what are the conflicting and numerous duties of a judge-advocate to convince any lawyer how great are the chances of miscarriage with such a procedure. It is certainly full time to revise the system, and the most effectual step would be to assign to lawyers what is their proper work. There would be no insuperable difficulty or objection in providing for this purpose a legal staff. The principle involved is already recognised in the appointment of a Judge-Advocate-General. It would be only necessary to give him a few subordinates with special functions. With a lawyer as an assessor, and with another as prosecutor, there would be no fear of such scandals as the Dublin courts-martial of two years ago, or of Lord Elphinstone's case, before the recent Court of Inquiry.

UPON THE RIGHT OF BEARING AND CHANGING NAMES.

(*Continued from page* 451.)

Under certain circumstances, according to the extended view mentioned in sect. ii., an illegitimate child may take the name of his reputed father. This naturally is only of force in domains of law in which such decidedly contrary rules as those expressed in the Prussian Provincial Law are not to be found—and therefore for the domain of common law. There are

* A Treatise on the Criminal Law of the Navy. By Theodore Thring Barrister-at-Law.

† From the German of Dr. Robert Hermann, of the University of Jena

essentially two views which may be taken of this point. (*a*) An illegitimate child has a right to the name of his father founded on and proceeding from the paternity. From this point the Leipsic faculty of jurists appears to have started, which delivered the first judgment in the case mentioned in sect. 322. Kauffer thus reports the decision:—"Since the person whose family name is given by a woman to her illegitimate child, for this reason undoubtedly, from the moment she asserts that he is the father of the child, and therefore the child is entitled to bear his family name has a right of complaint against her as long as she cannot prove the paternity asserted;—and therefore the complaint raised, considered as *actio paternitatis negativa*, does not preclude a well-founded consideration; and that the defendant admits the ground of the complaint, but puts forward the assertion that the complainant, being really the father of the child, has no right of contradiction; under these circumstances everything depends on whether the defendant can prove the paternity of the complainant or not: the defendant is therefore bound to prove such an excuse *salva reprobatione*." The Royal Saxon Upper Court of Appeal, although in the foregoing case it took for the basis of its decision the Roman legal enunciation of the *impositio* and *mutatio nominis*, does not oppose the view of the faculty of jurists, since it states in the grounds of its decision that it is in accordance with German customs that illegitimate children should bear their mother's name, when the father is uncertain; that on the contrary when he is determined they should assume his name.

The indefensibility of this view is obvious; it contradicts an enunciation which has been carried through to all its consequences: "*matrem sequuntur*;" it is in direct contradiction to the enunciation that illegitimate children have legally no father; it is an inconsistency which could only be remedied by an express legal declaration—but such a one is nowhere to be found.

In Saxony also this theory has not been recognised: here the inclination has been rather to the second view, and that on very decided grounds.

(*b*) According to this the illegitimate child has a claim to assume and bear his father's name when the latter has expressly recognised him as his child, and consented to such assumption. This rule proceeds from the nature of the thing, without being laid down as a declaration of common law, as is shown especially by Wiarda.

It is not difficult to demonstrate that the Roman dogma is the chief justification of the partisans of this view. We maintain, however, that there are the same objections to the present view as to the one mentioned in section *A*. It is inconsistent to maintain the innate character of the family name, to look upon illegitimate children as fatherless, under all circumstances to condemn them to the status of the mother, and yet to disengage a single side of the paternal relation, and to concede it to them; lastly it is wrong to place the subsistence of a condition or relation, which has and must have a public legal side independent of the will of any private person, in the will of the individual. This, however, is the natural result of the pretended authority of the reputed father. Except the assertion that the father's right lies in the nature of the thing, nothing is brought forward; and as we cannot recognise this argument, but hold the view itself to be contrary to undoubted fundamental principles, our view can only be that, according to common law, illegitimate children are entitled under all circumstances to assume their mother's name, but not bound to do so.

Some individual particular laws have however determined that on the express consent of the reputed father his illegitimate children shall be entitled to assume and bear his family name.

In like manner speaks an electoral Saxon rescript of the 18th of February, 1799, whose not very clear composition has led to doubts, and, amongst others, to the idea that the right of the illegitimate child to the family name of his reputed father rests on the acknowledged or demonstrated paternity of the latter. On the ground of an ordinance of the Ministerial Department of Worship and Public Instruction, of the 20th of August, 1848, on this subject, the Saxon authorities have consistently followed the principle that illegitimate children must bear their mother's family name, and can only assume that of their reputed father by his consent declared in due form.

This exception from the common law rule is also recognised by the Austrian Civil Code of Laws, in sect. 164. "The entry of the paternal name in the register of baptisms or births on the showing of the mother is only a complete proof where the entry has occurred with the consent of the father, given in legal form, and this consent has been confirmed by the testimony of the sponsor and minister that he is personally known to them."

Apart from the exception first mentioned in particular law, we must maintain that illegitimate children of all kinds, under all circumstances, assume and bear their mother's name. There are two cases especially to be remarked, as they might appear doubtful. As we have already had to mention, the wife acquires, at the moment of the completed marriage, the rank and family name of her husband, and, according to common law, keeps them until her death, unless she marries again. Therefore it is only consistent that the illegitimate children born of a widow should receive her name (that is, the name of her deceased husband), and no less that the child born of the wife in adultery should yet receive and bear her husband's name, because, according to common law, neither *stuprum* nor adultery annul, as a punishment, the name acquired by entering into marriage, but the only grounds for losing it are death or re-marriage. Finally, even juridically a sudden revival of her former innate family name—which could or should fall to her illegitimate children—cannot be admitted.

Einert holds a legislative decree upon the abovementioned cases of the acquirement of a name to be a pressing want. He suggests (s. 118, ff.) the following decisions:—

1. "All children born of a married woman are under all circumstances to be called by the mother's married name.

2. "Children not born of a married woman are unconditionally and under all circumstances to be called after their mother."

According to our representation, these enunciations have already by the law of custom become positive law, and setting aside some unimportant deviations of particular laws—also common German law. That they are often disregarded in actual life cannot alter the result; only from the point of view that they are recognised by express law, and their maintenance and carrying out thereby better secured, can we declare such a law to be a necessity.

Our positive law, however, also recognises the acquisition of a fixed new name, a *mutatio nominis ipso jure*, limited to fixed events.

According to an immemorial and unbroken law of custom the wife acquires on the completion of the marriage the family name of her husband, and certainly she has a well-acquired right to this name. Even Einert acknowledges here the private legal nature of names in unequivocal words. "I have never known otherwise," he remarks in s. 82, "and know no otherwise now, than that a woman, by marrying, acquires a right to her husband's name." On this point there is no contest.

According to common law, the wife retains this newly-acquired name until her death, or until she enters into another marriage. Divorce produces no alteration—that is, no loss of the name. The Prussian provincial law, however, differs on this point.

Part ii., tit. i., sect. viii., § 741, "As a rule the wife has the choice whether she will retain the name of her

divorced husband, or whether, in the case of § 740,* she will resume her former general or widowed name." § 742: "If, however, she is expressly declared to be the guilty party, she may not bear her husband's name any longer against his will." †

II. Some particular laws permit a maiden or a widow, who becomes pregnant after betrothal or a promise of marriage, in case the marriage does not take place through the death, absence, or fault of the seducer, the right to assume and bear the name of her bridegroom or seducer.

Royal Saxon Rescript of 7th of November, 1808 (S. Haubold, Saxon Private Law, § 59); Prussian Provincial Law, Part ii., tit i., sect. ix., § 1409: "On the contrary, in the decision to be written concerning the person seduced, the name, station, and rank of the seducer, as well as generally all the rights of a divorced woman, who has been declared the innocent party, shall be given to her," § 1050. "She shall actually enjoy these rights in civil life, and all its transactions."

If legal hindrances stand in the way of the marriage of the seducer with the seduced, which might nevertheless be removed by a legal decree, in the judgment to be written according to § 1057, the right shall be given to the seduced woman to bear her seducer's name until her actual marriage.

If however the seducer, by another betrothal and marriage, renders marriage with the seduced woman impossible, it is decided in the Appendix, § 73 to § 163, part ii, tit. i, sect. iii, that "Notwithstanding the marriage, the rights secured to the seduced woman respecting the bearing of a name, remain as before."

Finally, the § 1065 decides that—"In all cases where the name of the seducer cannot be given to the seduced, she must receive special compensation from him, besides the proper satisfaction.

I believe that if on any points it appears that the name must be considered as a private right or as a civil legal one, it is on those mentioned under the heads I. and II.; the detailed decisions of the Prussian Provincial Law cannot possibly leave a doubt upon the civil legal significance of names.

III. A *mutatio nominis* by the law of custom linked to fixed events, and taking place as their legal consequence, is only found in the following cases:—

1. As already mentioned, children legitimatised *subsequens matrimonium*, receive at the moment of the completion of the marriage the family name of their father.

2. The same is to be assumed in common law of the so called *legitimatio per rescriptum principis plena*; for the object of this is essentially to bring the child in relation to the legitimatising father into all the legal conditions of one born in wedlock. According to rule, indeed, the prescript will expressly declare this. That the so-called *legitimatio minus plena* has not this effect is equally expressly proclaimed in particular law.

Prussian Provincial Law, Part ii., tit. ii., sect. ix., appendix § 94 to § 592 (see above, sect. 326).

3. Finally, adoption also has this effect in common law, that the person adopted acquires the family name of the person who adopts him. The Roman law leaves no doubt on this subject. A principal ground of the numerous adoptions was the conveyance, and thereby the preservation and transmission of the name of the adopter in and by the adopted. Even adoption by women has this effect.

Individual particular laws state this expressly: they only authorise and require the adopted to join his original innate family to that of his adopter.

Prussian Provincial Law, Th. ii., tit. ii., sect. x., § 682, 685, 688, 689, 713. Austrian Civil Code of Laws, § 182, 184. Saxon scheme of 1860, § 1829.

* § 740: "If she is not declared to be the guilty party, she may resume the higher rank which she had before marriage."

† In one other case the Prussian Provincial Law requires a resumption of the original family name, in that of a marriage with the left hand. Part ii., tit. i., sect. ix., § 874: "If she was a widow, she must resume her general name." See also part ii., tit. ii., sect. x., § 689.

In conclusion the nature of the thing requires of certain persons an *impositio nominis*—that is, a choice or gift of a name with a special intention, because either the innate name cannot be discovered, as with foundlings, or according to the decisions of our law does not exist, as in naturalised Jews. These two should, however, be the only two cases of a *libera nominis impositio* in the legal life of the present day.

(To be continued.)

THE LAW OF LIEN.

By Oliver Stephen Round, Esq., of Lincoln's-inn, Barrister-at-Law.

No. VII.

(Conclusion.)

We have now considered the etymology and origin of lien, what it is, the different kinds, how and upon what it may attach, and how, having attached, it may be lost. All that now remains is to say a few words upon how it may be enforced, and upon "stoppage *in transitu*." As to the enforcement of a lien that is perhaps a somewhat inaccurate term, inasmuch as—at law, at least—there is no such thing as enforcing a lien. It can only be made a question on the part of the defendant in an action of trover; and therefore, so far, the better term would be, How it may be insisted upon. No doubt in equity it may be sought to be established by a bill asking for a declaration that the plaintiff is, under the circumstances, entitled to a lien, &c. Indeed, in every case which has been referred to in these articles, the question has been raised in one or other of these modes. The cases in equity are somewhat numerous, but in many of them the question only comes in incidentally—as, indeed, it constantly does at law; but often, certainly there, the action originates in the fact of the defendant insisting upon his lien. Thus, in *Norman* v. *Johnson*, 8 W. R. 300, a father, previously to his daughter's marriage, gave to the trustee of her settlement a bond, binding himself to pay an annuity on certain trusts for the benefit of her and her children, and on his death another daughter, entitled to the father's property, resisted the claim of her sister's trustee on the bond. There a bill *quia timet* was filed, and a declaration was made that she had a lien on the real estate for the value of the annuity. In *The Thames, &c., Ship Building Company* v. *The Patent Derrick Company*, 8 W. R. 208, the bill sought to enforce a lien by sale of a vessel, but Vice-Chancellor Wood held, under the circumstances, that there was no right to a sale. The case of carriers' lien sometimes arises, where a railway company are employed, but the same form referred to above is observed. In the case of *Crouch* v. *The Great Western Railway Company*, a parcel was sent to Plymouth but the party to whom it was directed refusing to pay the charge for carriage, it was taken back to London; upon which the sender brought an action for non-delivery, containing two counts, one against the company as common carriers, the other in trover, and substantially judgment was given against the company; but the case is merely referred to to show the form. In some of the earlier cases the question was discussed whether a special plea of lien was necessary in an action of trover (*Stancliffe* v. *Hardwicke*, 2 Cr. M. & R. 1; *Vernon* v. *Skipton*, 2 Mees. & Wels. 9; 1 Chitty on Pleading, 499); but in *White* v. *Teal*, Q. B., Trin. T., 1840, it seems to have been decided that such special plea is not necessary, the proper plea being a denial of the plaintiff's right of possession. So much for the form of the remedy. (See Tudor's Cases, Mar. & Merc. Law, pp. 581 and 601 inclusive.)

Stoppage in Transitu.

Stoppage *in transitu* is nearly connected with the right of lien, the distinction being that whereas in the case of lien the power of the vendor is confined to the unpaid for goods in his actual possession, in the

other case it is restricted to such goods as may be in transit, of which there has been a partial, but not a complete delivery, but which are in the hands of a third person with the object of being delivered to the vendee (*Miles* v. *Gorton*, 2 Cr. & M. 511). The earliest case on the subject is *Wiseman* v. *Vandeput*, 2 Vern. 203; but see *Goodhart* v. *Lowe*, 2 J. & W. 349. The right extends not only to contracting parties, but to some cases where the contract is not actually complete (*Snee* v. *Prescott*, 1 Atk. 245; Cross on Lien, 364, *et seq.*), and also to a vendor's agent, and to a consignor against a factor (*Kinlock* v. *Craig*, 4 Bro. P. C. 47). The general meaning of the words *in transitu, pro hac*, is during the time the goods are actually out of the possession of the sender and not come into the possession or power of the party to whom they are sent (*James* v. *Griffin*, 1 M. & W. 20, and 2—623). There must be actual delivery in some sense, so that nothing further is necessary to be done; but it seems that the fact of goods remaining in a vessel does not determine the *transitus* (*Tucker* v. *Humphrey*, 4 Bing. 516). It is therefore almost unnecessary to say that anything which comes short of actual delivery to the party entitled to the goods or to whom they are sent, or anything which varies or invalidates the transaction, puts an end to the *transitus* (*Owenson* v. *Morse*, 7 Term Rep. 64). Upon what avoids the right the decisions have been conflicting (see *Mills* v. *Ball*, 2 Bos. & Pull. 461, and *Wright* v. *Lawes*, 4 Esp. 84; 6 Geo. 4, c. 94; Cross on Lien, 266). The ordinary case of stoppage *in transitu* is when goods are consigned on credit from one merchant to another, and the consignee becomes bankrupt or insolvent whilst the goods are on their way to him, and before they are delivered. In such case the consignee is allowed to resume possession of them, if he can succeed in arresting them on the way; and this operates as an equitable lien adopted by the law for the purposes of justice (*Gibson* v. *Carruthers*, 8 M. & W. 436; *Wentworth* v. *Outhwaite*, 10 *ibid.* 435). As to part delivery see *Turner* v. *Scovell*, 14 *ibid.* 28; and in a previous volume the subject of what a taking possession was, was much discussed (see *Whitehead* v. *Anderson*, 9 *ibid.* 518). In *Wilmshurst* v. *Bowker*, 7 M. & G. 882, it was held, reversing the decision of the Common Pleas, that by delivery of goods to the master of a ship, and transmission of an indorsed bill of lading, the right of possession was parted with (see also *Jenkyns* v. *Usborne*, *ibid.* 628). The full consideration of this part of the subject might well fill a moderate volume, but in such observations as the present it is impossible to do more than state the nature of the right and the principles which govern it, and having done that to refer the learned reader to the leading and most recent cases upon the point. These, it is almost unnecessary to say, are at law, but will be found within a very circumscribed space; those referred to, if well considered, will be found to contain the whole doctrine.

In this as in all other branches of the law a distinct principle is recognised, and therefore the only question upon the variety of circumstances constituting each case is the application of that principle. Stoppage *in transitu* being a right to waylay (if we may use the expression), the subject matter upon which there is a claim, the law requires that there should be an actual transit, or to use the Italian phrase, the thing must be *in petto*, and hence there must be an actual receipt of it to discharge or end the state of *transitus*: thus, an order to deliver is not sufficient, there must be an execution of that order although it is not necessary that the vendee or recipient should actually receive, for it is sufficient if the subject is placed in his power, as being delivered at a place where he can send for or fetch it, although he does not actually do so, in fact, where the possession is *out* of the vendee, sender, or his agent. It will thus be seen that a step beyond the right given by the fact of there being a lien is allowed, where it would be a hardship that a man should lose his goods because he has either in part or altogether given up the possession of them, although they have not got into the hands of another person, and in such a case he is permitted to recover them if he can while they are *in transitu*.

EQUITY.

PARTNERSHIP.—In a suit for an account by the next of kin of a deceased partner against the surviving partner, who also filled the character of executor *de son tort* of the estate of the deceased partner, it was

Held, that the defendant, by submitting to answer the bill, rendered himself liable to set out not only the accounts of the estate so received by him, but also of the partnership dealings and transactions.

If he intended to object to answer the interrogatories, as to the accounts of the partnership, he ought to have demurred to that part of the relief sought.—*Leigh* v. *Birch*, M. R., 11 W. R. 554.

MORTGAGE BY HUSBAND AND WIFE.—Three estates belonging to A., the second of which was mortgaged for £1,400, and the third for £3,000, were settled by A., for valuable consideration upon, himself for life, remainder to his wife for life, remainder as they should jointly appoint, and in default upon them in equal moieties.—Held, that a mortgage by A. and his wife of the first and second estates by appointment under the power for the debt of the former was to be borne equally by both moieties of the property.

The mortgagee of the first and second estates entered into possession and received rents more than enough to pay the interest, and applied the surplus in part discharge of the capital. A. having allowed the interest on the mortgage for £3,000, which exceeded the value of the mortgaged estate, to fall into arrear, and having died insolvent—Held, that his estate was to be recouped out of his wife's moiety, half the surplus rents applied in discharge of the capital of the other mortgage, and that neither the mortgagee of the third estate nor the wife had any counter equity to have the arrears of interest recouped out of such surplus rents.

The settlement was expresly subject to the subsisting mortgages, but the first mortgage was by mistake stated to be for £1,200, instead of £1,400. There being clear evidence of the wife having expressly admitted the mistake—Held, that A. was not estopped by the statements in the settlement, and that it must be considered to be subject to the entire charge.

The mortgagee in possession held entitled to be allowed moneys properly expended in insuring and improving, in the absence of any express powers for such purposes in the mortgage deed.—*Scholefield* v. *Lockwood*, M. R., 11 W. R. 555.

TRUSTEES FOR SALE.—Trustees for sale, when selecting one of several almost equally favourable offers, are bound to have regard to a preference expressed by the *cestui que trust*, who is entitled to the purchase-money, yet they being vendors are entitled to a reasonable discretion.—*Selby* v. *Bowie*, V. C. S., 11 W. R. 559.

BANKRUPT—RIGHT TO SUE.—Plaintiff had been adjudicated a bankrupt, and real estate of his had been sold by the assignees. Subsequently, he by fraud induced his creditors to accept a composition, whereupon the adjudication was annulled—

Held, that he could not sue to have the sale set aside, and that any right of suit which might exist enured to the benefit of his creditors.—*Adams* v. *Sworder*, V. C. S., 11 W. R. 560.

SOLICITOR AND CLIENT—ANNUITY.—Where a solicitor purchased an annuity from a person not previously his client, but was himself the only solicitor employed in the transaction, and charged the vendor the costs of the deed, which were paid out of the purchase-money immediately after the completion of the purchase—Held, 1st, that this

was not a dealing within the rule against purchases by solicitors from their clients; and, 2ndly, that there was no such retainer or return of any portion of the purchase-money as avoided the annuity under the 6th section of 53 Geo. 3, c. 141.—*Edwards* v. *Williams*, L. J., 11 W. R. 561.

LUNACY OF PLAINTIFF.—Where a plaintiff becomes a lunatic before decree, and a committee has been appointed, an order of revivor and supplement may be obtained, under 15 & 16 Vict. c. 86, s. 52, for the purpose of joining the committee as co-plaintiff.

The jurisdiction to make such an order is in Chancery, not in Lunacy.—*Timpson* v. *London and North Western Railway Company*. M. R. & L. J., 11 W.R. 558.

COURT OF CHANCERY.

(Before Vice-Chancellor Sir J. STUART.)

April 16.—The VICE-CHANCELLOR, shortly after the sitting of the Court, addressing Mr. Bacon, said,—There are very extraordinary frauds in the course of perpetration now, of a kind unheard of so far as I am aware. A man who signs his name as "Ashley Cooper" goes about serving notices upon poor people in the country, purporting to be made under decrees of this Court. He charges 6s. 8d., and threatens such people with loss of their property if they do not appear. I hold one of these notices in my hand at this moment. It is as follows:—

"In Chancery.—*Re Moore*, defendant.

"No. 43, 1863.—In the matter of Francis Anthony Moore, who died in London on or about the 31st day of January, 1845. "Lincoln's-inn.

"Let the heir-at-law or next of kin, or any one claiming relationship with the said Mr. Moore, deceased, file his, her, or their claim forthwith, at the chambers of the Master of the Rolls, at the Roll's-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said decree. Thursday, the 16th day of April, 1863, at 12 o'clock at noon, is appointed for hearing and adjudication upon the claim.—Dated the 20th of March 1863.

"9,000. "Sir JOHN STUART, Vice-Chancellor.

"12 Old-square."

The above was endorsed as follows:—

"This notice of claim was served by me on Mr. John Moore in person this 11th day of April, in the year of our Lord, 1863. "ASHLEY COOPER.

"Office-fees, 6s. 8d.

"Received Ashley Cooper, April 11, 1863."

The address given by the person serving this paper was Kew-green, Surrey. There are many letters which come addressed some to my chief clerks and others to myself, making inquiries in consequence of the notices which have been served upon the writers. I have no power in the matter, and I do not know what I can do to prevent money being extracted from people in the manner I have stated. To a person who is not illiterate the notice which I have read is nonsense upon the face of it, because I am thereby made to order somebody to appear before the Master of the Rolls. The notices, however, seem to have been sufficient to have extracted 6s. 8d. from a number of people. Although I have no means of preventing such a fraud as that of which I am speaking, it is right that people should be put upon their guard.

REAL PROPERTY LAW.

CONVERSION—ELECTION.

Sisson v. *Giles*, V. C. S., 11 W. R. 558.

The two doctrines of conversion and election, which are peculiar to courts of equity, are so closely related and have so frequently to be considered together (although they are in themselves very distinct) that we may usefully make the above case the text for discussing them in their correlative aspects. Equity considers land directed to be sold, and money directed to be invested in land, as being that species of property into which they are directed to be converted. The owner of land may, in Equity, cause it to be regarded as money, and *vice versa*, and the subsequent devolution of the property will be governed by the rules applicable to the kind of property in its converted state. This effect may be worked equally by a will or a settlement, or by any contract, or even by articles; but a mere direction to convert will not of itself be sufficient, nor will a mere *power* of sale, unless the power is imperative or in the nature of a trust. Where the conversion is deemed to have taken place, not only the subsequent devolution and disposition of the property will be in accordance with its converted quality, but it will have as far as possible all the incidents of that species of property, although the conversion has yet not actually taken place. Thus, money directed to be laid out in land and settled in fee is not only descendible as real estate to the heir, but is liable only as real estate to simple contract debts, and will pass under a devise of lands, but will not pass under a bequest of mere personalty. Adopting the same view, the Crown always claims legacy duty where real estate is directed to be sold out and out, though the property has not been sold before a person entitled under a will elects to take it as real estate. Until land directed to be sold has in fact been sold, its conversion is of course but constructive. It is converted merely in the contemplation of a court of equity, and a court of equity also holds that where the conversion has not taken place, and the interest has vested absolutely, there may be an election to take the property in its unconverted state, and the fact of such election may be sufficiently indicated by any act or indication of intention on the part of the person entitled, and thus he may determine the succession as between his legal and personal representatives.

In *Holloway* v. *Radcliffe*, 23 Beav. 163, where the trust for conversion on the death of the tenant for life was for the benefit of a class, Sir J. Romilly, M.R., held that unless all the members of the class concurred in electing to take the property as land, the trust took effect. "It would," said his Honour, "be repugnant to the principles on which the doctrine of conversion and re-conversion rests, to hold that one of the legatees of an undivided share in the produce of real estate directed by the testator to be converted into personalty could, without the assent of the others, elect to take his share as unconverted, and in the shape of real estate."

Mr. Jarman, in his book on Wills (3rd edn., vol. i., p. 567), thus states the rule:—"In order to amount to an election to take property in its actual, as distinguished from its eventual, or destined, state, the act must be such as to absolutely determine and extinguish the converting trust; and hence it would seem to follow that where two or more persons are interested in the property it is not in the power of any one co-proprietor to change its character, in regard even to his own share; for as the act of the whole would be requisite to put an end to the trust, nothing less will suffice to impress upon the property a transmissible quality, foreign to that which it had received from the testator." According to this rule, therefore, the owner of an undivided share, or any other partial interest, could never elect to take or treat his share or interest as unconverted. Yet, although this rule has been pretty well settled, courts of equity, in their anxiety to give effect to the intention of testators, have in some cases decided in a manner which might at first sight appear somewhat contradictory to it. The contradiction, however, is only apparent, as may be seen by reference to the cases. Thus, in *Triquet* v. *Thornton*, 13 Ves. 345, Sir William Grant held that a share of Bank Stock, which was taken by the heir under a trust, to lay it out in real estate, which was not done, passed as under a gift of personal estate; but this decision proceeded upon the particular terms of the will, and upon the desire of the Court to give effect to what was considered as being the plain intention of the testator, and there is little doubt that in the event of the devisee dying intestate the stock would have devolved to *his* heir, and not to his personal representative. Lord Thurlow, in the same way, held that where a legatee of the proceeds of real estate directed to be sold, devised the land in its character of real estate, the devisee was entitled to the fund in

question, though it would, when acquired, be personal estate in the hands of such devisee. Such decisions as these, so far from being exceptions to the general doctrine of the court relating to conversion, in truth confirm it. There are some exceptions, however, which we ought to notice here.

1. Where the direction to convert or trust for sale of land is merely for the purpose of paying debts, legacies, &c., the devisee or "legatee of the surplus proceeds," subject to the charges, may clear them off and retain the land unsold: *Griesbach* v. *Fremantle*, 17 Beav. 314.

2. Where there is a resulting trust on failure of the purposes for which conversion has been directed. The rule in such cases is established by the famous argument of Mr. Scott, afterwards Lord Eldon, in the case of *Ackroyd* v. *Smithson*, 1 Bro. C. C. 503. There the testator gave several legacies and ordered his real and personal estate to be sold, and, after payment of his debts out of the proceeds, he gave the residue to certain legatees, of whom two died in the lifetime of the testator, and it was held that so far as the lapsed shares consisted of personal estate they should go to the next of kin, but so far as they consisted of real estate, to the heir-at-law; in other words, conversion was coincident only with the purposes of the will. Therefore, however absolute the terms of a will may be, *ultra* its purposes there will be no conversion.

3. Where there has been a *total* failure of the purposes the heir will take the estate as realty descendible to his heir.

Having thus shortly stated what conversion is and what election is, we may consider further who are persons competent to act, and what acts are sufficient indications of the fact of election.

It may be stated, as a general but not universal rule, that there is a disability of election in every person who is not *sui juris*. Thus it has been held that an infant is incompetent to elect, but in a recent case—*Robinson* v. *Robinson*, 19 Beav. 494—Sir J. Romilly, M. R., seems to have considered that an infant was competent to elect under the direction of the Court. Sir William Grant, in *Ashby* v. *Palmer*, 1 Mer. 296, held that there could be no presumption of election in the case of a lunatic. Probably, however, where the matter was within the direction of the Court, the Court would have no difficulty in declaring election where it was for the lunatic's benefit. The greatest controversy has been in reference to election by a *feme covert*. In *Oldham* v. *Hughes*, 2 Atk. 452, Lord Hardwicke held that a married woman was not capable of thus changing the nature of her estate by articles. "If," said he, "two persons are entitled to money, which is articled to be laid out in land, and considered as such, they may agree before the investiture of it, to take it as personal estate, and it shall go as such to their representatives, provided none of the parties were under any incapacity; but I am of opinion that this lady was incapable of changing the nature of this estate, because of her being under coverture and unable to contract." Upon the point of the lady's capacity, Lord Hardwicke observes as follows:—"If this money is to be considered as real estate, she is a feme covert, and cannot alter the nature of it barely by a contract or deed; for, to alter the property of it, or course of descent, this money must be invested in land (and sometimes sham purchases have been made for that purpose), and she may then levy a fine of the land, and give it to her husband or anybody else. There is a way also of doing this without laying the money out in land, and that is, by coming to this court, whereby the wife may consent to take this money as personal estate, and upon her being present in court, and being examined (as a feme covert upon a fine is) as to such consent, it binds this money articled to be laid out in land, as much as a fine at law would the land, and she may dispose of it to her husband or anybody else; and the reason of it is this, that at law, money so articled to be laid out in land, is considered barely as money, till an actual investiture, and the equity of this court alone, views it in the light of a real estate; and therefore this Court can act upon its own creature, and do what a fine upon common law can upon land; and if the wife had craved aid of this Court in the manner I have mentioned, she might have changed the nature of this money which is realised, but she cannot do it by deed."

In the above-named case of *Sisson* v. *Giles*, real property was devised to trustees upon trust to sell and stand possessed of the proceeds in trust for A. and B., a married woman, with further trusts in the event of their dying without leaving issue, and it was held by Sir J. Stuart, V.C., that A. B., and B.'s husband could elect to take the property in an unconverted state. His Honour, however, did not decide the point whether or not a married woman was incapacitated from election, and his judgment appears to have turned upon the point that the property must be considered to have become personal estate, and therefore to have belonged to the husband in his marital right, and so he could himself elect to take it as a real estate. His Honour appears to have had no difficulty about deciding that an owner of an undivided share could make an election, although, as we have seen above, there have been very strong decisions the other way, and the rule that all persons interested must concur in the act of election, has been long settled.

It only remains to add a few words as to what expressions or acts are sufficient evidence of an intention to elect. It is not certain whether an election can be made by parol, as there are decisions either way on this point. Any expression or act relied upon as evidencing the intention must be clear and unequivocal. In this respect the rule of the Court is different in the case of election, and in that of merger. Where the question of merger arises, the Court will sometimes presume for or against merger, according as it would be beneficial or injurious to the person to be affected thereby; and it will do this upon very slight evidence, or even in the entire absence of evidence; but then merger is by operation of law, and in such cases the Court proceeds upon the maxim *actus legis nemini facit injuriam*. Election, on the other hand, is the act of a person, and may affect the rights or interests of different classes of persons between whom the Court is indifferent. The burden of proof therefore depends upon the person alleging the fact of election.

The following cases illustrate the rules of the Court as to what is sufficient evidence of election.

Where an estate was by a will directed to be sold, and the legatee of the proceeds entered upon land, and made a lease of part of it reserving rent to her heirs and assigns, she was held to have elected to take it as land; *Crabtree* v. *Bramble*, 3 Atk. 680.

So where a person who was absolutely entitled to the money to arise from the sale of land took possession of the title deeds, he was held to have elected to take the land itself; *Davies* v. *Ashford*, 15 Sim. 42. In an older case, however, *Kirkman* v. *Miles*, 13 Ves. 388, it was held that mere possession of an estate for two years was not sufficient evidence of election that there should be no conversion. Although, as we have seen, the general rule is that the owner of an undivided share cannot elect, it appears that there may be a partial election by a person entitled to the whole. Thus, where a person entitled in fee to lands which were to be purchased with trust money called in part of the money and placed it out upon a fresh security, in the name of a trustee, for himself, his executors, and administrators, it was held that he had thus elected so much as money, but that the residue should be considered as real estate. *Lingen* v. *Sowray*, 1 P. Wms. 172. See also on this point 1 Jarms. 3rd ed., 565; Smith's "Real and Personal Property," 2nd ed. 1061.

COMMON LAW.

PUBLIC HEALTH ACT.—Under the Public Health Act a local board of health having, on the report of their surveyor, ordered certain works to be done to abate an

alleged nuisance, and the justices, on an application to them to enforce the order, having decided that the defendant had done all that was necessary, though not all that was ordered to be done—

Held, that they had no discretion, on that ground, to decline to enforce the order.—*Hargreave* v. *Taylor*, Q. B., 11 W. R. 562

COMMON PLEAS.

(Sittings at Nisi Prius, at Westminster, before Mr. Justice WILLIAMS and Common Juries.)

April 16.—In the first case called on to-day, which was an action to recover the value of a lot of sheep, the learned judge expressed his opinion (with which the jury concurred) that the facts ought to have been investigated by a Dorsetshire jury, the cause of action having arisen in that county, and that a metropolitan jury, although perfectly competent to deal with them, ought never to have been troubled with the case.

(Before Justices WILLES, BYLES, and KEATING).

April 18.—*Re John Jones, an Attorney.*—Mr. *O'Malley*, Q.C., moved for a rule calling on Mr. Jones to show cause why he should not render an account of moneys received under the following circumstances, and pay over the balance.

It appeared that in the early part of 1862 an accident occurred on the South Eastern Railway, near Greenwich, when two young men, named Cary and Kealing, were seriously injured. They were attended by a surgeon named Henderson, who advised their friends to instruct Mr. Jones to obtain compensation from the railway company for the injury sustained by the young men; and, after some negotiation between Jones and the company, the latter agreed to pay £350 for the injury, and £105 for the costs. The defendants made affidavits, stating that, although they had instructed Jones, they were ignorant of the negotiations which had been going on; but having been told by Henderson that he could get for them £170, they saw Jones, and received from him a cheque for that amount, without any knowledge whatever that £350 had been received.

The Court granted a rule *nisi*.

WEST INDIAN ENCUMBERED ESTATES COURT.

(Before H. J. STONOR, Esq., Chief Commissioner.)

April 16.—A sugar estate, called Drax Hall, in the parish of St. Ann, in the island of Jamaica, containing 2,338 acres, was sold for the sum of £4,500, exclusive of stock, which was to be taken at a valuation. Two smaller properties, called Sunbury and Mocho, in the parish of Clarendon, in the same island, containing respectively 1,130 and 361 acres (out of cultivation), were also sold. Messrs. Leifchild & Cheffins were the auctioneers.

April 21.—*Re McDowall. Ex parte James Normand and Others.—Order for sale made absolute, without notice to an owner, who had failed to support his objections, the same appearing by the record to be insufficient.*

The petition in this case was for a partition and sale of two thirds of the Park Hill Estate, in the island of St. Vincent, and was filed on the 28th of November, 1862, by the assignee of a statutory mortgage to the West Indian Relief Commissioners. Notice of objections on the part of the owner was received on the 17th of March, 1863. The time to file objections expired on the 13th day of April, 1863. The owner had not applied to have his objections argued, and the petitioners applied to have the conditional order made absolute, without notice being served on the owner, who was resident in the island of St. Vincent.

The CHIEF COMMISSIONER held that the petitioners were entitled to the order, unless the objections were of such a nature that upon the record they appeared to be fatal to the prayer of the petition, or unless they disclosed matter which, upon further evidence, might have ripened into valid objections. The objections which had been filed in this case fell into neither category. The first was that the owner's mother had a prior interest to that of the petitioner, which was not released. Assuming the facts stated in this objection to be true, it was no valid objection to the order for sale, although it might possibly be a ground for an application for a postponement, or to stay proceedings, or to have credit in the biddings, or priority on the purchase money (*Re Lord Portarlington*, McNevin's Irish Incumbered Estates Act, p. 57; *Re Greatheed*, Cust's West Indian Incumbered Estates Acts, p. 152). But the interest in question appeared in fact, by the record and deeds lodged in the court, to have been released. The second objection was that the petitioner's incumbrance was transferred by the West Indian Relief Commissioners to the petitioner within twenty years, contrary to an understanding to that effect. The mortgage to the Commissioners contained no stipulation of the kind, and it was not averred that the petitioner had any notice of the understanding. It also appeared that the Commissioners had an absolute power of transfer under the statute 7 Vict. c. 17, and such an understanding would appear to be contrary to the Act. At all events, it was clear that the violation of the alleged understanding by the Commissioners could not affect the present petitioners.

The order was made absolute.

BANKRUPTCY LAW.

JOINT STOCK COMPANY—WINDING-UP—ACCEPTANCE OF SHARES—CONTRIBUTORY—19 & 20 VICT. c. 47, ss. 19, 25.—Upon an application to remove the name of an alleged shareholder in a joint stock company from the list of contributories,

Held, per Goulburn, Comm., that the register of shareholders was conclusive evidence of holding, and that the Court had no power to alter the register.

Application refused.—*Ex parte Fox, Re The Mosely Green Coal Company (Limited)*, 11 W. R. 551.

A judgment debtor summons, under the 76th section of the 24 & 25 Vict. c. 134, cannot properly be issued against a member of Parliament.—Per Holroyd Comm.—*Nesbitt* v.——, *M. P.* 11 W. R. 552.

RIGHTS OF TRUSTEE UNDER DEED OF ASSIGNMENT.—A debtor executed an assignment of his stock in trade, and all other his personal estate and effects, "except the leases of certain premises which were not intended to be thereby assigned," to a trustee for the benefit of "as many of the several creditors as had executed," &c. The deed contained a proviso, however, that if the debtor kept back any part of his estate, or refused upon the request of the trustee to assign the said leases, &c., the release thereinbefore given by the creditors should be void. The debtor having refused to join in any assignment—

Held, per Holroyd, Comm., upon an application by the trustee to compel the debtor to execute, that inasmuch as the leases did not pass to the trustees by force of the assignment, the Court had no power to interfere.

Quære, whether the deed would be good under the Bankruptcy Act, 1861.—*Re Roberts*, 11 W. R. 552.

PROOF BY MORTGAGEE.—In a suit by a wife against her husband's assignees in bankruptcy and the mortgagee of an estate, mortgaged by the husband and wife, to which estate the husband was entitled in her right—the assignees having disclaimed at the bar all right to redeem—the decree declared that the plaintiff was entitled to redeem, upon payment of the debt, and that in default the bill should be dismissed as against the mortgagee. The mortgagee afterwards proved in bankruptcy for his debt before anything had been done under the decree.—Held, that the disclaimer by the assignees would be only binding if the plaintiff exercised her right to redeem; and that the mortgagee could only be admitted to prove on condition that if the bill were dismissed against him, the husband's life interest in the property should be sold, and the proceeds deducted, and proof admitted for the remainder, or, if the plaintiff should redeem, then that the proof should be without prejudice to the same being expunged for the benefit of the parties paying the debt to the mortgagee.—*Ex parte Paine*, L. C., 11 W. R. 553.

COURT OF BANKRUPTCY.

April 17.—Reference having been made, in the course of to-day, to the subject of criminal prosecutions by Mr. Albert Turner, Mr. Commissioner Holroyd said that some misapprehension appeared to exist in reference to the steps necessary with a view to the prosecution criminally of fraudulent bankrupts. Each case must of course depend upon its own circumstances; but, as a rule, it was not necessary that there should be a commitment by the magistrate before this Court gave leave to prosecute. The order which he made in Hyam's case was an order giving the assignees leave to take the bankrupt

before a magistrate, to be by him dealt with according to law; and he had sanctioned that course upon the production of *primâ facie* evidence of the commission of a criminal offence under the statute.

Mr. Sargood was glad to hear the expression of his Honour's opinion, for if assignees were, of their own motion, to institute and carry on criminal proceedings, they might, in some cases, commit themselves before a warrant of commitment was made out against the bankrupt.

Correspondence.

PROTECTIONS IN BANKRUPTCY.

Oblige me by space in your Journal for a few words as to *protections in bankruptcy*. The correspondence which you have lately published renders it, as I think, desirable to clear up this matter. One can well understand the collision which has existed between the county courts and the Bankruptcy Court on this subject. But a collision seems now inevitable between the Bankruptcy Court and the superior courts on the like question. A few words will, I think, remove the present misapprehension on this subject.

What is a protection in bankruptcy? The answer depends on the 198th section of the present Bankruptcy Act. By this section a certificate of the "filing and registration" of the composition deed is to operate as a protection. This, however, is only, to use the words of the Act, a protection *in bankruptcy*, and I draw attention to these words. The effect of the protection is given in the Act and by the clause to which I allude, by which it is clear that its operation is substantially confined to process, either against property or person. But I apprehend it to be clear that the protection does not affect any "right of action." This I understand to be the view of your correspondent Mr. Griffiths, a view which seems to me consistent with the sense of the Act. Indeed, the case of a debtor about to leave this realm is expressly and cautiously excepted, as your readers will see by the clause in question.

If the Act goes beyond this, then no action will lie to try the validity of the deed. A composition deed is, as is well known, subject to the conditions expressed in the 192nd section of the Act. If the deed is not such as will bind all the creditors, then it is clearly, I apprehend, no bar to an action by a dissentient creditor. In fact, a protection is only an answer to a sheriff's officer, being at the best but *primâ facie* good even for this purpose. How can it be pleadable to an action involving the validity of the deed? It is, I think, unnecessary to answer this question—the answer is so obvious. In the case of such an action the pleadings must necessarily go to the circumstances and the conditions of the deed itself, as in the case of *Woods* v. *Foote*. There can, I think, be but little doubt that the clauses in question will give rise to a prolific source of litigation. Though those clauses are cautiously and skilfully framed they deal with a very difficult subject, and one which requires further consideration by the Legislature. It is evident that the bankruptcy laws must be reviewed in many respects, for the present system is, I believe, unsatisfactory to the whole community. This, however, must, I suppose, be left to next session, and in the meantime its working will be better understood.

3, Compton-street, April 20. J. CULVERHOUSE.

PROBATE.

DOMICIL.—A testatrix, who had acquired a French domicil, left the place of her residence in France with the intention of resuming her English domicil, and embarked on board a vessel in a French harbour, bound for England. Before the vessel started she was taken so ill that she was obliged to land, and never afterwards recovered sufficiently to prosecute her voyage, and soon died.

The Court refused, on motion, to grant probate of her will, executed in accordance with the law of England.—*In the goods of Emily Raffenel, deceased*, 11 W. R. 519.

COURT OF PROBATE.

(Before Sir C. CRESSWELL.)

BUSINESS OF THE COURT.

April 16.—This was the first day of the sittings. Besides the cases disposed of to-day, there were ten probate causes set down for hearing, of which two were to be tried by special juries, five by common juries, and two before the Court. The divorce list contained eighty-nine causes. Of these fourteen were to be tried by special juries, twenty by common juries, and the rest without juries. Ten of them were suits for judicial separation, four for restitution of conjugal rights, one for a declaration of legitimacy, one for nullity of marriage, and the remainder for dissolution of marriage. Notice has been given that the Court will not take any divorce causes without juries at the present sittings.

DIVORCE AND MATRIMONIAL LAW.

ATTACHMENT.—Service of an order for the payment of alimony by giving a copy to the party served, and showing him an office copy of the original order, is sufficient. Service of an order for the payment of costs is insufficient unless the original order is produced.—*Parr* v. *Parr and White*, 11 W. R. 550.

ALIMONY.—A voluntary annual allowance made to a husband by one of his parents is not an income upon which alimony can be allotted.—*Haviland* v. *Haviland*, 11 W. R. 550.

—— The Court has no power to suspend a decree of judicial separation, on the ground of a wife's cruelty, until the husband has made a provision for the wife.—*Dart* v. *Dart*, 11 W. R. 551.

NEW TRIAL—LEAVE TO ANSWER.—After a rule for a new trial had been made absolute application was made on behalf of the co-respondent, who had appeared but had not answered, for leave to file an answer. The application was rejected, and as a similar application previous to the first trial had been made and rejected, it was rejected with costs.—*Jago* v. *Jago and Graham*, 11 W. R. 551.

APPOINTMENTS.

Mr. HENRY PARKIN BADGER, of Rotherham, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the West Riding of York.

Mr. EDWARD HENRY RICKARDS, of 29, Lincoln's-inn-fields, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Middlesex, city of Westminster, and city of London.

Mr. CHRISTOPHER THOMAS POTTS, of Sunderland, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Durham.

GENERAL CORRESPONDENCE.

THE WRITS PROHIBITION BILL.

I addressed a letter to you the other day, containing a suggestion that attorneys should be themselves allowed to serve summonses in the county courts in cases where attorneys are employed, instead of the summonses being served as at present by the bailiffs of the courts. This suggestion, though I see no reason why it should not be carried out in the case of all county court summonses, had especial reference to the summonses requiring personal service under the 3rd section of Mr. Bouverie's new bill. I venture to give a practical form to my suggestion, by laying before you the following clauses which I should propose as an addition to Mr. Bouverie's bill, should it be likely to become law.

4. In every case in which such last-mentioned summons shall be issued on behalf of the plaintiff by an attorney of one of the superior courts of common law, whose name shall appear in the then current *Law List*, it shall be lawful for the attorney issuing the summons to require that the said summons be delivered to him for service, and upon an affidavit of personal service being filed, the plaintiff may sign judgment in the manner and under the conditions hereinbefore mentioned, and in case personal service of the summons shall not have been effected twelve clear days before the return day thereof, a summons returnable on the next or any subsequent court-day, shall be issued without any further fee.

5. The fee to an attorney for such service, including mileage, shall be 2s. 6d. where the summons is served within the jurisdiction of the county court out of which it is issued, and 5s. in all other cases, and for affidavit of service, including oath and

filing, 2s. 6d., and no court fee shall be payable for filing such affidavit.

6. In any case in which the judge of the county court out of which the summons is issued shall be satisfied, by affidavit or otherwise, that reasonable efforts have been made to effect personal service, and either that the summons has come to the knowledge of the defendant, or that he wilfully evades service thereof, it shall be lawful for the said judge to make an order for the plaintiff to be at liberty to proceed, as if personal service had been effected; and the fees allowed to attorneys in such a case shall be the same as those allowed in similar cases in actions, under £20 in the superior courts of common law.

Clauses to the above effect, in case Mr. Bouverie's bill never becomes law, might be, and as I think ought to be, introduced into any Act for the amendment of the county courts that may be passed, and are indeed of sufficient importance to form the subject of a separate bill.

The great point urged by Bentham, who has been the guide in most of the recent reforms in our law, was that the parties to every suit ought to be introduced as early as possible into the presence of the judge, so as to determine the question between them without delay; and he objected to our system of common law pleading, as contrary to this first principle of jurisprudence. This is all very well where there is any question to be tried between the parties, but the first point to be ascertained in any suit is whether there is really any question to be tried, or whether the suit does not arise simply from the fact that the defendant is unwilling, until compelled by legal process, to satisfy a demand which he does not dispute. Judicial statistics show that three-fourths of the actions brought come within this latter category, as being in reality undefended. It is a waste of judicial power to compel judges to hear these cases, which decide themselves by the simple mechanism of requiring the defendant to give notice if he disputes the claim. Let us suppose that in all the cases in the superior courts, in which nothing is done beyond issuing a writ because the defendant makes no defence, it were made compulsory on the plaintiff notwithstanding this to appear before a judge and prove his case. These cases are in fact three-fourths of the actions brought in the superior courts, and the proportion of cases not actually tried is very much greater. The waste of judicial power, if such a thing were made compulsory, would be obvious to every one, but this very waste is taking place every day in the county courts, in which the judges perform duties as to three fourths of the cases brought before them that might be equally well performed, and in the superior courts *are* equally well performed, by a judgment clerk at £100 a year. A. sues B. in the county court for £5 for clothes. B. has no idea of disputing the correctness of the claim. The simple fact is that he is dishonest or careless enough not to pay until he is compelled. The day of trial comes. B. does not appear. Yet, although he never had any intention or idea of disputing the claim, though he has given the best proof in the world of its correctness by taking not a single step to dispute it, A. must prove his case, and must appear either by himself or his attorney, and must have his books and assistants in court at considerable expense. In such a case, which represents, let it be remembered, the vast majority of the cases in the county courts, the time of the plaintiff, the time of the witnesses, the time of the attorney if there be one, and the time of the judge, are all wasted. The remedy for such a state of things is a properly organised system of judgment by default. I hope you will insert this letter whatever may be the result of Mr. Powell's amendment to Mr. Bouverie's bill, because the question goes beyond that bill. There should be a power of obtaining judgment by default in the case of all summonses in the county courts, though it would be peculiarly necessary if Mr. Bouverie's bill were carried.

London, April 20. JOHN SHOARD.

Husband and Wife—Separation.

I shall feel much obliged or any of your readers will answer the following questions.

A husband and wife are living apart under a deed of separation, the former making the latter an allowance. The husband has been in the habit of paying for goods purchased by his wife from various tradesmen on credit (previously to the separation), such goods being fetched away by the wife. After the separation the wife obtains and fetches away goods from the same tradesmen, they having had no notice from the husband, and being, in fact, ignorant of the separation, and the separate allowance made by him. Would the wife, under these circumstances, be considered the agent of the husband, and would the latter be liable for payment of the goods,—he looking to the trustee to the deed of separation on the part of the wife for reimbursement under his covenant; or if not, what remedy have the tradesmen, and against whom?

23rd April. J. M.

PARLIAMENT AND LEGISLATION.

HOUSE OF LORDS.

Friday, April 17.

Dismissal of Judges in the Ionian Islands.

Lord CHELMSFORD called attention to the case of the removal of two of the Judges of the Supreme Council of Justice of the Ionian Islands, and moved for the correspondence and the papers on the subject. The removal, he allowed, was not illegal, but he should like to know the reasons which had impelled the Lord High Commissioner to take such a step.

The Duke of NEWCASTLE said, in accordance with the Constitution of the Ionian Islands the judges were removable every five years. It had been represented to him that the removal of these judges would increase the confidence of the Ionians in their courts of justice, and he thought that where a power was provided by the Constitution giving the Lord High Commissioner the means of removing them, it was not desirable that his motives for doing so should be questioned.

Lord DERBY said the question raised by Lord Chelmsford was, whether the removal of these judges was not repugnant to the maxims held on the subject in this country. He expressed his astonishment at the position laid down by the Duke of Newcastle, that the Lord High Commissioner should arbitrarily remove men of eminence, of ability, and of integrity from their office without assigning any cause whatever. He was at a loss to reconcile the action of Her Majesty's Government in the present case with the position they had taken up on a recent occasion in refusing to dismiss an Australian judge—that it was necessary above all things to uphold the independence of the judges. By delaying the issue of the warrants for appointing their successors, an appeal to the Ionian as well as to the British Parliament (the Duke of Newcastle denied this in regard to the Imperial Parliament) had been denied the two judges; and, taking this into consideration, with the fact of their dismissal without cause assigned, he could not help thinking the step was contrary to the spirit of the Ionian Constitution and to the rules of justice and legality in this country for the independence of the judges. He trusted the House would not sanction the steps taken by the Government, and hoped that the Duke of Newcastle would reconsider his decision not to produce the correspondence on the subject.

The Duke of NEWCASTLE had no objection to produce the papers moved for. He briefly explained the facts of the case in regard to his despatch on the independence of judges in Australia—a case by no means identical with that of the removal of the two judges in the Ionian Islands.

The LORD CHANCELLOR contended that, as these judges were removable after a fixed period, there could be nothing more inexpedient than assigning reasons for not reappointing them. In regard to the manner in which these two judges had not been re-appointed, no one in the Ionian Islands had complained of it, except the two gentlemen affected.

Lord GREY dwelt with much force on the necessity of upholding judicial independence, and stated that it was his habit, when secretary for the colonies, to refer questions of such great importance as the dismissal of colonial judges (who held their office during pleasure) to the Judicial Committee of the Privy Council. It was better to put up with a bad judge for a time than violate the great principle of judicial independence. If the two judges were removed for being political partisans, that was a good ground for removal, but the charge ought to have been made known and investigated before they were dismissed.

The motion was then agreed to.

HOUSE OF COMMONS.

Friday, April 17.

Writs Prohibition Bill.

Mr. Grenfell presented a petition against this bill from attorneys practising at Preston.

Monday, April 20.

Assurances Registration (Ireland) Bill.

On the motion for the second reading of this bill, the debate which had been adjourned from April 16, was resumed by

Mr. WHITESIDE, who said that the complaint he had against the present bill was, that it revolutionised a state of things that had existed in Ireland for a century and a half. The Act of the Irish Parliament provided in the clearest manner for the registration of memorials of deeds, and moreover required the registrar to give a very large security against negligence. The bill was objectionable on two grounds—first, that it was a bill to create government patronage; and, secondly, that it would enable a "black list" to be drawn up by any parties so disposed, in the same way as lists of judgments, &c., were published in England. The hon. and learned gentleman referred to the passing of the Act of the 11th Vict., which had proved to be totally futile, inasmuch as nobody ever resorted to it. In Ireland people had more reliance on a search made at their own request, and for which they paid, than one which had been made in past times. It was upon this mode of registration that a system of jurisdiction was built up in Ireland which had existed for upwards of a century. Every word of the 7th Queen Anne had been expounded by the ablest men who had sat upon the Irish bench, and it had been expounded in the old Irish House of Lords. His great objection, then, to this bill was that, where they had a law settled, ascertained, and adjudicated upon by the very highest authorities, it was unwise and impolitic, unless there was an overpowering necessity for it, to change the law that was thoroughly understood and well paid for by the gentlemen of Ireland. In defence of the Registry Office the hon. and learned gentleman challenged the Chief Secretary for Ireland and the Solicitor-General to state a single authenticated instance of irregularity or neglect on the part of that office. He admitted there were delays in consequence of the vast mass of business cast upon it, but this was all that could be said against it. The hon. gentleman never made a more unfortunate misstatement than when he said the office was in a state of confusion. On the contrary, the care, precision, and accuracy with which the business was conducted was beyond all praise, and the only man who had imposed on the court by the committal of forgery was the late John Sadleir. The court had arranged one million of memorials with so much care and precision, that any one of them might be found in a very short space of time. The other work was kept up close, and the arrears was a myth; and he considered it was impossible to construct an office that would do the work more safe, secure, and perfect than the one in existence. The right hon. gentleman, after certain lengthened introductory remarks upon what might be termed the history of the case, proceeded to state seriatim his objections to the bill, which were very numerous. He objected to what he described as the patronage clause, under which the nomination to some sixty appointments in the new registry office would be vested in the Lord Lieutenant, instead of in the Treasury, and then to the superintendence and management of all the departments being devolved upon the judges of the Landed Estates Court. He also refused to assent to the appointment of some thirty or forty temporary clerks being given to the judges of the Landed Estates Court, and likewise to the power of dismissing the registrar and assistant registrar conferred upon them. The right hon. gentleman went into a most minute examination of the plan according to which registration was to be effected, and pronouncing it dangerous, illusory, and impracticable, called upon the House to reject it. The right hon. gentleman then referred at some length to the injury that might arise from an erroneous registration of the name of the townland in which mortgaged property was situated. The mortgagee would lose all his money, and the attorney might be tried for misdemeanour, and no remedy whatever was provided. Considering that in Ireland there were many towns of the same name, (in one instance thirteen), such mistakes were very likely to occur.

The House divided, the numbers being—

For the second reading...	56
Against it...	41
Majority	—15

Sir E. GROGAN gave notice that, when the bill went into committee, he should move that it be referred to a select committee.

Colonel Dunne, Colonel Dickson, and Mr. V. Scully, spoke against the bill, and the Solicitor-General and Sir G. Grey in its favour. The motion for committing the bill on Monday was agreed to.

Tuesday, April 21.

WRITS PROHIBITION BILL.

Mr. J. J. Powell presented a petition against this bill from the Chamber of Commerce of Gloucester.

Wednesday, April 22.

INNKEEPERS LIABILITY BILL, No. I.

This bill was withdrawn.

RECORD OFFICE.

On the motion of Colonel White, an address to the Crown was agreed to for a copy of a letter from the Master of the Rolls to the Secretary of State for the Home Department with reference to the alleged abstraction from the Record Office of certain State papers.

OBITUARY.

C. T. SWANSTON, ESQ., Q.C.

Mr. Swanston, a gentleman who was formerly well known as a chancery barrister, died somewhat suddenly at his residence, Holly House, Twickenham, on Sunday, at an advanced age. The deceased gentleman was one of the oldest Queen's counsel, and had for many years before his retirement an extensive practice in the courts of equity. He had also a large bankruptcy business under the old system, and when the Court of Review was established under the auspices of Lord Brougham, he took the lead, and subsequently continued to practise in bankruptcy appeals before the Lords Justices. He retired before the new bankruptcy law took effect to his seat at Twickenham, where he resided until his death. Mr. Swanston possessed great legal knowledge and a clear intellect. Though not gifted with great oratorical qualifications he had much persuasive power, and was greatly respected in his profession. He was called to the bar in November, 1813, and was a member of Lincoln's-inn. The deceased gentleman has been, and will long continue to be, most widely known as the reporter of Lord Eldon's decisions during the years 1818-19. He succeeded Mr. Merivale as a reporter, and was followed by Messrs. Jacob and Walker. In the preface of his first volume, which was written nearly forty-three years ago, Mr. Swanston makes some judicious observations upon what he conceived to be in his time *desiderata* in law reporting, and certainly he was well qualified to lay down rules upon the subject, judging by what he himself accomplished. In his reports are always to be found a sufficient statement of the case, without anything like the diffuseness of more modern times—an intelligible summary of the argument, and not a mere heap of cases without arrangement—and also a good outline of the pleadings, which modern reporters for the most part disregard. The most valuable feature, however, in Mr. Swanston's reports are his own notes on the law of important points discussed though not decided. In some of these he traces a history of the law from its origin on many questions that at that time had not received discussion from text writers; and indeed until the general body of law comprised in these three volumes of reports are entirely obsolete, no lawyer will be wise in overlooking the little dissertations in the shape of notes which they contain. Mr. Swanston was a good scholar as well as a good lawyer, and few men have been more highly respected at the Bar or by members of the judicial Bench than he was.

HENRY LAKE, ESQ., SOLICITOR.

Henry Lake, of Lincoln's Inn, the senior member of the firm of Henry and George Lake & Kendall, died on the 3rd inst., at the comparatively early age of fifty-five, after an illness of nearly two years. He was a honourable and high minded solicitor, and a generous and good man. His end was peaceful. It had been foreshadowed to him for some time, but he contemplated its approach without apprehension, and in a resigned and trustful spirit.

The name of Henry Lake will long be held in honoured and affectionate remembrance by a large circle of professional brethren, by whom his great intelligence and sterling worth were known and appreciated. He had a high sense of justice, and anything mean, tricky, or sordid was utterly alien to his nature. For several years he was an active and zealous member of the council of the Incorporated Law Society of the United Kingdom. He was also a member of the Metropolitan and Provincial Law Association, and one of the managing committee of that body. He was, besides, a governor of Sir Roger Cholmeley's grammar school at Highgate, and one of the council and executive committee of the Church Institution at Trafalgar-square, in which he represented the deanery of Sittingbourne. He took a prominent part, whilst his health permitted, in the deliberations of the council of the Law Institution, and de-

voted much of his valuable time to the promotion of the concentration of the courts of law and the reforms in the procedure of the Court of Chancery. In these labours his accurate knowledge of the practice of the court, the result of matured experience, was of the greatest value.

Henry Lake's conscientious sense of duty had been, shortly before his death, to resign his honourable position at the council board of the Law Institution. He found that the state of his health left little hope that he would ever again be able to take any active part in the labours which devolve on that body, and, painful as the step must have been to him, he took it. The Council passed resolutions in which they deeply deplored the painful circumstances which obliged them to accept the resignation of a colleague for whom they entertained a very warm regard, and with whom it had always been a pleasure to be associated. The Council added that they should do injustice to their own feelings of personal attachment to Mr. Lake, and should fail in their duty to the profession to which they belong, if they did not record their unanimous and cordial appreciation of the many and varied services rendered by his intelligent and active mind to the society and the profession, and their most earnest hope that his health might soon, by the blessing of God, be restored, and that they might have the pleasure, at a future and not distant day, on his re-election by the Society, to welcome him again amongst them.

That hope, alas! was not destined to be realized, since he has gone to his rest, leaving behind him an unsullied name, and an example worthy of respect and imitation.

He was born at Radfield, near Sittingbourne, in Kent, in 1807, and was educated at the Rochester grammar school, under Dr. Griffiths. He was articled to his brother John, then a partner in the firm of Lake & Witherison, of Lincoln's Inn. He was admitted in 1833, and in the same year joined his brother's firm. He was married, in 1836, to a daughter of Benjamin Green, Esq., and has left a family of six sons and two daughters. His eldest son joined the firm last year.

IRELAND.

Mr. Maguire's Bill for the Assimilation of the Procedure of the Court of Admiralty in Ireland to that of the corresponding Court in England proposes to confer upon the Irish Court the power of examining witnesses by word of mouth, of compelling the attendance of witnesses and the production of papers; and, generally, to assimilate its authority and its rules of procedure to those of the superior courts of common law. The number of proctors who alone can practise in the Irish Court of Admiralty (corresponding with the attorneys and solicitors of the courts of common law and of equity) is formally six but virtually only four; for, of the six, one gentleman resides in a provincial town and is not engaged in his profession, and another is crown solicitor for Dublin, and acts through his partner, who is one of the remaining four. The very slight extent to which the court is used is sufficiently apparent from the fact that these four gentlemen divide the business of it among them. The monopoly is in itself objectionable. On grounds of abstract principle it should be abolished. This Mr. Maguire's measure, if it become law, will do—in this respect, too, following the example of English legislation. The task in Ireland ought to be an easy one. The great difficulty in the case of the English practitioners lays in the fact that they were two hundred in number, and the vested intersts of two hundred persons cannot be cheaply purchased. The four Irish proctors ought to be more easily provided for. As Mr. Maguire's Bill follows strictly in the steps of English legislation, it is impossible to see on what grounds exception can be taken to it. It is clear that either the English Acts ought to be repealed and the constitution of the Court of Admiralty in that country reduced to what it was prior to 1813, and to what the Irish Court now is, or Mr. Maguire's measure should be passed, and the Irish Court entrusted with the powers which have been conferred upon that in England.

An address "To persons seeking to be bound Apprentice to Solicitors, and to the Profession generally," has been issued by the President of the Incorporated Society, Richard J. T. Orpen, and the Vice-Presidents, Arthur Barlow and John Orpin, from which we extract the following "curriculum," intended for those who are about being bound apprentices:—"The Council have for many years spared no exertion on their part to raise the profession to that social position which it is entitled to hold, and they trust they have not been together unsuccessful; but all their endeavours must fall short of the object they seek to attain, unless the parties admitted into it from time to time shall have received that liberal education which is essential to the station of gentlemen, and for those whose duties require a constant intercourse with clients of the higher classes of society. The preliminary education required by the Benchers is not more extensive than may be easily acquired by any lad of moderate abilities, who gives proper attention to study, by the time he has attained the age of sixteen years. By the rules of the Benchers of the 29th day of May, 1860, the applicant is liable to be examined in the following books:—Latin—Cæsar's Commentaries, First Book; Sallust, Virgil, First Three Books of the Æneid. History—Liddell's Roman History, Smith's History of Greece, Abridgement of Hume's History of England. Arithmetic—Galbraith and Haughton's Treatise on the Theory and Practice of Arithmetic, as used in the National Schools. Book-keeping—The Treatise used in the National Schools. Geography—Sullivan's Geography Generalised. English composition and writing, from dictation, in which penmanship and Orthography will be taken into consideration."

UNIVERSITY INTELLIGENCE.

OXFORD.

The Chichele Professor of International Law and Diplomacy intends to lecture upon Neutral Rights and Obligations (using Wheaton as a text-book) on Wednesdays and Fridays, at one o'clock.

PUBLIC COMPANIES.

BILLS IN PARLIAMENT.

The following bills for the formation of new lines of railway have been read a third time and passed in the House of Commons:—

CENTRAL WALES.—Extension.
ELY VALLEY.—Extension.
EVERSHAM AND REDDITCH.
FURNESS AND MIDLAND.
NORTHAMPTON AND BANBURY JUNCTION.
WHITEHAVEN, CLEATOR, and EGREMONT.

MEETINGS.

GREAT WESTERN OF CANADA RAILWAY.

At the half-yearly meeting of this company, held on the 22nd inst., a dividend at the rate of 2½ per cent. per annum for the past half-year was declared.

COUNTY COURT COSTS.

The following letter on the subject of County Court costs has recently appeared in the *Times*:—

Will you allow me through you to call attention to the proceedings of registrars (or sub-registrars) in County Courts, as though the following scene appeared to me both unseemly and unjust, I find on inquiry similar ones are of constant occurrence in some courts. Thinking it my duty as executor to endeavour to resist various small but improper claims on an estate, I found myself lately summoned into one of the courts south of the Thames. The Judge showed his opinion of the claim by twice recommending the tradesman to withdraw it, and at length, on giving judgment, declined to allow him any costs. This seemed very displeasing to his attorney (who possibly had undertaken the case on speculation), and he immediately stepped forward and said confidentially to the person representing the registrar, "You must contrive to get me half a guinea." He answered by a nod and a smile, and commenced executing the commission by saying persuasively to the Judge, "Oh, your honour, you might allow him something; let him have his railway expenses," Judge.—"Very well, give him 6d." Registrar.—"Say a shilling, your honour" (as if it were something to drink). Judge.—"Then a shilling." Registrar.—"But he could not travel second-class (!); so let him have two" (the first-class, return, being 9d). Judge.—Well, take two." Registrar.—"Then, your honour, there are his cabs"—but here, fortunately for me, the face of the judge, who was rather irritably inclined, assumed such a red and portentous appearance that the registrar prudently brought his pleadings, and the giggles in court, to a conclusion. Now, Sir, what right has an officer of the court to become an attorney's advocate, and ought the judge to be influenced by him? But the sequel remains to be told. When, a moment after, I asked what I had to pay, I was handed an account, in which, besides the costs of the court

7s. was put down for plaintiff's expenses. I might, under the unusual and disagreeable position in which I was placed, have paid the amount without examination; but the person with me detected the item immediately, and returned it for explanation. It was reduced to 2s. with a smile, and said to be a mistake, which it might have been, but added to what passed before, was more than suspicious. Now, Sir, ought the officers of a court of justice to place themselves within the reach of suspicion; and, as reports of County Court proceedings do not reach the public generally, but are confined to the local papers, is it not as well to give them a warning? THE VICTIM.

April 11.

On Tuesday was published the twelfth general report of the Church Estates Commissioners, recently made to the Secretary of State for the Home Department. In that document they state that under the provisions of the 6th and 7th sections of the Act 17 & 18 Vict. c. 116, they had transferred to the Ecclesiastical Commissioners for England during the past year a sum of £200,000 cash, and a sum of stock equivalent to £100,000 cash, in respect of the surplus proceeds of enfranchisements completed. The aggregate amount which has been paid over to the account of the Ecclesiastical Commissioners is now £1,000,207 2s. 2d., in addition to £100,000 in respect of interest which has accrued on the surplus. In the last report it was stated that the transactions approved by the Church Estates Commissioners between August, 1861, and March, 1862, were 2273 in number, and the value in fee of the estates so agreed to be dealt with was more than £8,600,000. The exact number of transactions was, however, 2,274, and the fee simple value of the property dealt with was approximately £8,840,000. During the past year the Church Estates' Commissioners had approved the terms agreed upon in 143 cases, 126 being cases of sales of reversions, and seventeen cases of purchases of leasehold interests, and the value in fee of the estates so agreed to be dealt with was approximately £700,000. The aggregate number of cases approved was therefore 2417, and the value of the property dealt with £9,540,000. In thirteen cases the Commissioners had refused to approve the terms proposed, but in seven of them the terms had been so modified as to meet with the sanction of the Commissioners, and they were consequently included in the above aggregate. In conclusion the Commissioners state that the transactions continue to be effected with facility, and they have reasons to believe that the terms are generally satisfactory to the lessees as well as beneficial to the Church. The report is signed by the Earl of Chichester, the Right Honourable E. P. Bouverie, and the Right Honourable S. H. Walpole.

On Sunday last the ancient ceremony of "Churching the Judges" took place in St. Paul's Cathedral. Lord Chief Justice Erle, Mr. Justice Williams, Mr. Baron Martin, Mr. Baron Channell, and Mr. Justice Keating assembled at Serjeant's-inn, Chancery-lane, and at a few minutes before three o'clock were conducted to the Cathedral by a few members of the city police. Their Lordships were received by the very Rev. the Dean of St. Paul's, the Lord Mayor, Alderman and Sheriff Lawrence, Sheriff Jones, Mr. Under-Sheriff Farrar, Mr. Gresham, the High Bailiff of Southwark, the Common Serjeant, Mr. Secondary Potter, Alderman Besley, Alderman Gibbons, Alderman Waterlow, and a large number of members of the Court of Common Council.

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

ABDY—On April 17, at Welwyn, Herts, the wife of J. T. Abdy, Esq., LL.D., of a daughter.

ASTON—On April 18, at 41, Doughty-street, Mecklenburgh-square, the wife of James Jones Aston, Esq., Barrister-at-Law, of a son.

BARBER—On April 20, at 17, Lansdowne-rd. North, Kensington-park, the wife of Wm. Barber, Esq, of Lincoln's-inn, Barrister-at-Law, of a daughter.

MARRIAGES.

FREEMAN—MERIVALE—On April 16, at St. James's, Paddington, William Peere, son of William Peere Williams Freeman, Esq., of Pylewell Park, Lymington, to Isabella, daughter of Herman Merivale, Esq.

HODGSON—LUCY—On April 2?, at Edgbaston, Charles Bray, Esq., only son of Alderman Hodgson, Esq., Solicitor, of Birmingham, to Jane Vere, younger daughter of William Lucy, Esq., J.P. of West Mount, Edgbaston.

KAY—DRUMMOND—On April 21, at St. Mark's, Torquay, Joseph Kay, of the Inner Temple, to Mary Elizabeth, eldest daughter of the late Thomas Drummond, Esq., Under Secretary of State for Ireland.

SCHAW—WEYMOUTH—On April 16, at Kingsbridge, Devon, Henry Schaw, Esq., Captain Royal Engineers, to Louisa Mary, third daughter of the late Isaac Weymouth, Esq., Solicitor, Kingsbridge.

STARKE—BLOXAM—On April 15, at Harlaston, James Gibson Starke, Esq., Advocate, Edinburgh, to Amelia Charlotte, daughter of the Rev. R. B. Bloxam, Rector of Harlaston, Staffordshire.

DEATHS.

BOROUGH—On April 18, at 19, Ashburn-road, Derby, aged 22, Emma Louisa, the wife of John Borough, Esq., Solicitor, and elder daughter of the late Rev. John Maxwell Dunn, of Stapenhill, Derbyshire.

CHIDLEY—On April 22, after many months of intense suffering, Amelia, the beloved wife of J. R. Chidley, Esq., of No. 25, Old Jewry.

KEANE—On April 21, at Montague-place, Russell-square, aged six years, Blanche, daughter of David Keane, Esq., Barrister-at-Law.

PAYNTER—On April 20, at 53, Thurloe-square, Thomas Paynter, Esq., J.P. of Boskenna, Cornwall, and late one of the Magistrates of Westminster Police Court, in the 69th year of his age.

SWANSTON—On April 19, at Holly House, Twickenham, Clement Tudway Swanston, Esq., Q.C., F.R.S., J.P. for Middlesex, in his 81st year.

WALFORD—On April 20, in Thurloe-square, South Kensington, aged 58, Edward Walford, Esq., formerly of the Exchequer, son of the late Thomas Walford, Esq., of Bolton-st, Piccadilly.

UNCLAIMED STOCK IN THE BANK OF ENGLAND.

The amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

CARLOW, ELIZABETH AMY, of Little James-street, Bedford-row, Spinster. £83 6s. 8d. New Three per Cents.—Claimed by said A. E. Carlow.

FASE, HENRY, Kensington, Gentleman. £50 New 3 per Cents.—Claimed by said Henry Fase.

MORTIMER, GEORGE FERRIS WHIDBORNE, Rev., D.D., Head Master of the City of London School, and BROOKE CUNLIFFE, of Enbistock Hall, Flintshire, Esq., deceased, £100 Consols.—Claimed by said G. F. W. Mortimer.

READ, JOHN, of Maulden, Beds, Farmer, deceased, FRANCIS POINTON, of Codicote, Herts, Baker, and JOHN RUST, of Walkern, Herts, Tailor. £73 4s. 3d. Consols.—Claimed by said Francis Pointon, and John Rust, survivors.

ESTATE EXCHANGE REPORT.

AT THE MART.

By Messrs. WHITE & SONS.

Leasehold residence, known as "Dry Down," between Guildford and Dorking; let at £100 per annum, term 99 years from September, 1809, ground-rent £3 6s. 3d.—Sold for £1,480.

Leasehold residence, (unfinished), held at same term and ground-rent.—Sold for £740.

Valuable lease and goodwill of the cabinet marker's shop and premises, No. 65, Walcot-place, Lambeth, together with the five adjoining dwelling houses and shops, No. 62, 62A., 63, 63A., and 64, Walcot-place; estimated value £148 1s. 0d. per annum; term unexpired 55 years, ground-rents £28 3s. 0d.—Sold for £1,000.

By Messrs. COBB.

Leasehold ground rents of £126 per annum, secured on Nos. 87 to 93 (inclusive), Crawford-street, Bryanstone-square, term 44 years.—Sold for £1,870.

Leasehold ground rent of £184 13s., per annum, arising from Nos. 74 to 81 (inclusive), Seymour-place, and stabling, in Bryanstone-mews, South, term 46 years—Sold for £2,850.

Leasehold house and shop, 5, King-street, Westminster, term 141 years, from March 1863, at a peppercorn; let on lease for 21 years from Midsummer, 1852; let at £42 per annum.—Sold for £810.

By Mr. W. H. HEWITT.

Freehold the Prince of Wales' Feathers Public-house, 8, Warren-st, let on lease for 31 years from Christmas, 1857, at £85 per annum—Sold for £1,570.

AT GARRAWAYS.

By HENRY HAINES & SON.

Leasehold house and stables, 2, York-road, Lambeth, let at £170 per annum; term 23 years from Lady Day last; ground rent £60.—Sold for £320.

Lease and goodwill of the "Belmont" public-house, York-road, King's-cross.—Sold for £1,790.

By Mr. HULLAH.

Lease of the "Barley Mow" Wine Vaults, Dorset-st, Portman-square; held for 24 years, at £80 per annum.—Sold for £3,375.

By Messrs. ELLIS & SON.

Two Leasehold Residences, the Swiss Cottages, Herne Hill, Surrey, let at £160 per annum, term 76 years from December 1822; ground rent £36.—Sold for £1,400.

Leasehold plot of garden ground, Poplar-walk, with forcing house, pits, cottage, stable, &c., term 76 years, from December 1822; ground rent £2 10s.—Sold for £500.

[Erratum.—The sales of the residence of E. Bicknell, Esq., Herne Hill, Surrey; and of the Freehold Meadow, at Dulwich, were inadvertently announced last week as by Messrs. Farebrother, Clark, & Lye.—They were sold by Messrs. Richard Ellis & Son.]

LONDON GAZETTES.

Professional Partnerships Dissolved.

TUESDAY, April 21, 1863.

Mercer, John, & John Sharp Mercer, Mincing-lane, Attorneys and Solicitors (Mercer & Mercer). April 10. By mutual consent.

Windings-up of Joint Stock Companies.

FRIDAY, April 17, 1863.

UNLIMITED IN CHANCERY.

Doncaster Permanent Benefit Building and Investment Society.—V. C. Wood has appointed Mr. Alfred Allott, Sheffield, Accountant, Official Liquidator of this Society.

LIMITED IN CHANCERY.

Anglo-Danubian Steam Navigation and Colliery Company (Limited).—Petition for winding-up, presented April 16, will be heard before the Master of the Rolls, on May 2. Amory, Travers, & Smith, 25, Throgmorton-st, Solicitors for petitioner.

Cheshire Patent Salt Company (Limited).—Creditors are required, on or before May 11, to send their names and addresses, and particulars of their debts or claims, and the names and addresses of their solicitors, to F. Whinney, 5, Serle-st, Lincoln's-inn, Official Liquidator. V. C. Kindersley.

LIMITED IN BANKRUPTCY.

Southampton, Isle of Wight, and Portsmouth Improved Steamboat Company (Limited).—Comm. Fane will, on May 7 at 11, at Basinghall-st, proceed to take proofs of debts due from this company; and proceed further to settle the list of contributories.

TUESDAY, April 21, 1863.

LIMITED IN CHANCERY.

Commercial Discount Company (Limited).—The Master of the Rolls has appointed H. P. Harding, 14, Old Jewry-chambers, Accountant, Official Liquidator of this Company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, April 17, 1863.

Cattell, Peter, Gloucester-pl, Brixton, Gent. May 26. Colombine, Basinghall-chambers.
Dixon, Benj, Leeds, Innkeeper. May 10. Maud, Leeds.
Hays, John, Southfields, Leicester, Esq. June 24. Totter, Leicester.
Hobson, Fredk, Leeds, Proprietor of the *Leeds Times*. July 1. Dunning & Hay, Leeds.
Lewis, John, Newport, Monmouth, Master Mariner. May 20. Parr, Newport, Monmouth.
Murray, John, Carlisle, Boot Maker. April 25. Wright, Carlisle.
Northcott, John, Nether Stower, Somerset, Maltster. May 1. Smith, Bridgwater.
Sheppard, Walter Cope, Nutfield, Surrey, Gent. June 15. Hammond.
Yarwood, Wm, Chatham-pl, Walworth, Gent. May 9. Chester, Newington Butts.

TUESDAY, April 21, 1863.

Cavell, Thos Devereux, Dartford, Plumber. June 24. Russell & Son, Queen-st, Cheapside.
Cavell, Eliz, Dartford, Spinster. June 24. Russell & Son, Queen-st, Cheapside.
Coupland, Geo, Hemel Hempsted, Corn Dealer. May 22, Grover & Stocken, Hemel Hempsted.
Dobree, Wm, Malvern-cottages, Portland-pl North, Clapham-rd, Gent. June 1. Bradley, Malvern-cottages, Portland pl North, Clapham-rd.
Freeman, Rev. Fredk Wm, Pulham, St Mary Magdalen, Norfolk. Aug 1. Hazard.
Hedgley, John, Ebury-st, Pimlico, Music Publisher. May 14. Greatorex, Chancery-lane.
Hinde, Geo, Alton, Hants, Esq. June 1. Clarke & Morice, Coleman-st.
Meynell, Thos, Fryerage, near Yarm, York, Esq. July 1. Dodds & Trotter, Stockton.
Oughtred, Wm, Stockton, Merchant. July 1. Dodds & Trotter, Stockton.
Palframan, Wm, Darlton, Notts, Farmer. May 14. Marshall & Son, East Retford, Notts.
Potts, Wm, Redcar, York, Fisherman. July 1. Dodds & Trotter, Stockton.
Richardson, Thos, Henry-st, Portland-town, Middlx, Gent. June 17. Clapham & Comins, Gt Portland-st.
Russell, Eliz, North Cave, York, Spinster. July 1. Dodds & Trotter, Stockton.
Slade, Chas, Bath, Tea Dealer. May 30. Little & Son, Bladud-bldgs.
Sundius, John Fredk, Regent-st, Middlx, Gent. July 1. Cox & Stone, Poultry.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, April 17, 1863.

Hanson, Ann, Crooks Moor, Sheffield, Widow. May 21. Osborne v. Marsden, M.R.
Jones, Jas Knight, London-wall, Wholesale Box Manufacturer. May 25. Reeve v. Jones, V. C. Stuart.
Radford, Wm, Hereford, Lieutenant, H.M.'s Navy. May 4. Morgan v. Humfrys, V. C. Wood.
Twynam, Hy, Wadhurst, Sussex, Farmer. May 21. Piper v. Twynam, M.R.
Willis, John, Havant, Hants, Surgeon. May 21. Platt v. Blaxland, M.R.
Wormall, Sarah, Greenwich, Spinster. May 21. Wormall v. Smith, M.R.

TUESDAY, April 21, 1863.

Berdoe, Walter, Cornhill and Bond-st, Tailor. May 22. Berdoe v. Berdoe, V. C. Stuart.
Manley, Saml, Bedminster, Gent. May 21. Manley v. Manley, M.R.
Money, Archibald, Trowse Newton, Norfolk, Lieutenant-General in H.M.'s Army. May 21. Hervey v. Duke of Grafton, V. C. Kindersley.
Sandilands, Rev. Alf John, Park-sq, Regents-park. May 21. Watson v. Sandilands, V. C. Wood.
Simpson, Geo, Corbridge, Northumberland, Painter. May 23. Welford v. Stoke, V. C. Kindersley.
Smith, Wm Hy, St Andrew, Worcester, Coal Merchant. May 21. Smith v Davis, M.R.

Assignments for Benefit of Creditors.

FRIDAY, April 17, 1863.

Hudson, Hy, Uckfield, Sussex, Builder. March 23. Freeman, Brighton.

Deeds registered pursuant to Bankruptcy Act, 1861

FRIDAY, April 17, 1863.

Bentley, Fredk, Stewart-st, Spitalfields, Wholesale Clothier. April 15. Asst. Reg April 17.
Beeke, Chas, Leamington Priors, Horse Keeper. Mar 23. Asst. Reg April 13.
Bewick, Wm, Dukenfield, Chester, General Agent. April 14. Comp. Reg April 16.
Carter, Jas, Nottingham, China Dealer. Mar 20. Conv. Reg April 14.
Chapman, Rbt Cobb, Canterbury, Brewer's Clerk. April 8. Asst. Reg April 15.
Charles, Wm, & Benjamin Maxwell, Saltney, Flint, Oil Refiners. Mar 26. Conv. Reg April 16.
Dallas, Duncan Campbell, & Hy Fuller, Fleet-st, Stationers. April 1. Asst. Reg April 15.
Davies, J., Manafon, Montgomery, Shoemaker. Mar 24. Ass. Reg April 13.
Dring, John, Lpool. Comm Merchant. Mar 18. Comp. Reg April 15.
Fairbank, Josiah Forster, Adams-ter, Hampstead-rd, Civil Engineer. Mar 17. Asst. Reg April 14.
Grimstone, Francis, Northallerton, York, Tanner. Mar 30. Asst. Reg April 14.
Halls, Thos, Edmonton, Middlx, Coal Merchant. April 14. Comp. Reg April 17.
Harris, John, Burton-upon-Trent, Agent. Mar 19. Conv. Reg April 15.
Hately, Geo, South Shields, Saddler. Mar 25. Conv. Reg April 16.
Highfield, Jos, Lpool, Boot Maker. Mar 23. Asst. Reg April 17.
Hood, Saml, Upper Thames-st, Iron Merchant. April 17. Comp. Reg April 17.
Howard, J., Horton, near Bradford, Grocer. Mar 21. Ass. Reg April 15.
Hubbard, Paul, Red-cross-st, Manufacturing Milliner. April 8. Arrngmnt. Reg April 17.
Lansdell, Thos, High Holborn, Outfitter. Mar 21. Comp. Reg April 16.
McKay, Adam, Buckingham, Draper. Mar 25. Conv. Reg April 16.
McKelvey, Jas, Lpool, Provision Merchant. April 13. Comp. Reg April 17.
Ord, Benj Thos, Hartlepool, Printer. Mar 26. Asst. Reg April 16.
Petch, Thos, Cedar-rd, Walham, Fulham, Middlx, Clerk in the Legacy Duty Office. Mar 28. Covenant. Reg April 14.
Ramsey, Wm Shannon, Rochdale, Draper. Mar 25. Conv. Reg April 15.
Roy, Jas, Lpool, Merchant. Mar 23. Conv. Reg April 16.
Simcock, Abraham, Heywood, Lancaster, Earthenware Dealer. Mar 18. Conv. Reg April 15.
Smith, Jas, Huckmall Torkard, Notts, Framesmith. Mar 28. Conv. Reg April 16.
Smith, Wm, Runham, Norfolk, Fish Merchant, Mar 20. Comp. Reg April 16.
Spencer, Thos Huntley, Maidstone, Wine Merchant. Mar 31. Conv. Reg April 16.
Thompson, Ralph, Newcastle-upon-Tyne, Printer. April 4. Asst. Reg April 16.
Underwood, Chas, Manch, Leather Merchant. April 2. Ass. Reg April 15.
White, John, Ventnor, Isle of Wight, Blacksmith. Mar 26. Asst. Reg April 15.
Woodwark, Rchd Mayman, Whitby, Miller. Mar 20. Conv. Reg April 17.
Wooltorton, Chas, Farringdon-st, London, Ironmonger. Mar 19. Comp. Reg April 16.

TUESDAY, April 14, 1863.

Benson, John, Lpool, Stationer. Mar 24. Comp. Reg April 18.
Bonney, Wm Wolfe, Cannon-st, Merchant. Mar 16. Arrngmnt. Reg April 18.
Brice, Jas Potts, Lpool, Comm Merchant. April 6. Conv. Reg April 20.
Burton, Hy, Barden-pl, Peckham, Watchmaker. April 15. Asst. Reg April 20.
Carter, Geo, Rbt Carter, & Doctor Carter, Accrington, Cotton Manufacturers. Mar 20. Comp. Reg April 17.
Casey, Hy Seymour, Lowestoft, Milliner. Mar 19. Asst. Reg April 16.
Cave, John, Culworth, Northampton, Plumber. April 2. Conv. Reg April 17.
Clunie, John, Sidmouth-grove, Peckham, Bootmaker. April 17 Comp. Reg April 20.
Corbett, Geo Fredk, Lewisham, Builder. April 10. Asst. Reg April 20.
Crighton, John Shaw, Manch, Draper. Mar 25. Asst. Reg April 20.
Crow, Chas Stuart, Gateshead, Boot Dealer. Mar 24. Ass. Reg April 20.
Dunning, John, Green Walk, Bankside, Surrey, Timber Merchant. Mar 30. Asst. Reg April 18.
Dunster, Wm, Sheffield, Clog Maker. April 7. Conv. Reg April 21.
Flight, Ewd Gill, Bridport, Dorset, Gentleman. Mar 24. Asst. Reg April 20.
Greatrex, Alf, Pendleton, Lancaster, Grocer. Mar 24. Asst. Reg April 18.
Haddock, Wm, Bolton, Draper. April 9. Asst. Reg April 18.
Harmsworth, Rbt, Fratton, Portsea, Baker. April 4. Conv. Reg April 18.
Heaps, John, Chester, Pavior. Mar 30. Conv. Reg April 17.
Hollinrake, Jas, Gauxholme, near Todmorden, Lancaster, Iron Founder. Mar 14. Asst. Reg April 18.
James, Eliz, Cheltenham, Confectioner. Mar 28. Asst. Reg April 20.
Jerrard, Jas T, Birchin-lane, Print Seller. Mar 26. Asst. Reg April 18.
Lamacraft, Wm, Gray's-buildings, Kingsland-rd, Bookseller. April 13. Conv. Reg April 18.
Leighton, Rbt, Congleton, Grocer. Mar 23. Asst. Reg April 18.
Peck, Saml N, Alton, Hants, Wine Merchant. April 2. Asst. Reg April 21.
Saunden, Wm John Plantagenet, Maidenhead, Gent. April 13. Arrngmnt. Reg April, 20.
Ray, Wm, Surrey-pl, Old Kent-rd, General Merchant. April 8. Asst. Reg April 21.
Shaw, Rbt, Boroughbridge, York, Nail Maker. April 9. Conv. Reg April 20.
Sims, Wm, Lpool, Shipwright. March 23. Asst. Reg April 20.
Smith, Jno, Jno Rhodes, & Jas Moore, Keighley, York, Stone Masons. March 24. Asst. Reg April 29.
Stewart, Wm Andrew, Bootle, nr Liverpool, Tow Manufacturer. March 23. Conv. Reg April 20.
Stone, Wm Hy, Plymouth, Tailor. March 24. Conv. Reg April 20.
Swain, Jno, Lincoln, Innkeeper. March 24. Asst. Reg April 18.
Tebby, Jno, Wm Jno Tebby, & Daniel Tebby, Fritwell, Oxford, Builders. March 21. Asst. Reg April 18.
Thorpe, Jas, Bury, Draper. March 23 Asst. Reg April 20.
Todd, Jno, Sheffield, Cabinet Maker. April 11. Conv. Reg April 21.
Tombinson, Geo Wm, Speenhamland, Berks, Draper. March 26. Conv. Reg April 18.
Townsend, Wm, Ashton-under-Lyne, Boot Maker. April 17. Comp. Reg April 20.
Viggars, Daniel, Chesterton, Stafford, Boot Maker. March 23. Asst. Reg April 18.
Vosper, Thos, Calstock, Cornwall, Merchant. Mar 23. Conv. Reg April 17.
Wall, Thos Tabor, Gt Prescott-st, Goodman's-fields, Middx, Wine Merchant. April 16. Asst. Reg April 18.
Welch, Wm, Kedgere-pl, East India Dock-road, Timber Merchant. Mar 23. Conv. Reg April 17.

Bankrupts.

FRIDAY, April 17, 1863.

To surrender in London.

Anscombe, Joseph, Angmering, Sussex, Builder. Pet April 4. April 28 at 1. Linklaters & Hackwood, Walbrook.

Barnard, John Ansley Louis, Albert-rd East, Queen's-rd, Dalston, out of business. Pet April 13 (for pau). April 30 at 1. Aldridge.
Clarke, Fredk, Mansey-rd, Stratford, Merchant's Clerk. Pet April 13 (for pau). April 28 at 1. Aldridge.
Davis, Coleman Hyman, City-rd, Wholesale Stationer. Pet April 13. April 30 at 12. Duncan, Basinghall-st.
Fisher, Wm Raymond, Leytonstone-rd, West Ham, Chemist. Pet April 15. May 5 at 12. Ingle & Gooddy, King William-st.
Fitchett, Richd Thos, Charlotte-st, Portland-rd, Middlx, Tailor. Pet April 15 (for pan). May 5 at 2. Aldridge.
Green, Edw, Forest-hill, Kent, out of business. Pet April 14. May 5 at 11. Newbon & Co, Doctors'-commons.
Hall, Joseph, High-st, Battersea, Assistant to a Colour Grinder. Pet April 13 (for pau). May 5 at 11. Aldridge & Bromley.
Hancock, Walter, Fulham, Cambridge, Grocer. Pet April 2. April 30 at 2. Cole, Essex-st, Strand.
Hart, Herbert Wm, Upper Albany-st, Regent's-park, Manufacturer of Patent Reflecting Gas Shades. Pet April 14 (for pau). May 5 at 12. Aldridge.
Hayley, Thos David, Guildford, Tailor. Pet April 14. May 5 at 11. Randall, Gray's-inn-pl, Gray's-inn.
Hopkin, John, Etham-pl, Kent-st, Borough, Dealer in Marine Stores. Pet April 15. May 5 at 11. Chipperfield, Trinity-st, Southwark.
Hunt, Geo, Saham Tone, Norfolk, Victualler. Pet April 15. May 5 at 11. Treherne & White, Barge-yard-Chambers, Bucklersbury, as agents for Emerson, Norwich.
Ibbs, Lewis Jas, Upper Islington-ter, Barnsbury, out of business. Pet April 13. May 5 at 11. Treherne & Wolferstan, Gresham-st.
Jackson, John Collinson, Moreton-st West, Pimlico, Cabinet Maker. Pet April 15. May 5 at 12. Treherne & Wolferstan, Gresham-st.
Lopez, Melchor, Camden-pl, Southampton-st, Camberwell, out of business. Pet April 15 (for pau). May 5 at 12. Aldridge & Bromley.
Marter, Chas, St. Margaret's, Hertford, Innkeeper. Pet April 15. May 5 at 2. Batchelor, Serle-st, Lincoln's-inn.
Melville, Fanny, Marylebone-rd, Middlx, Vocalist. Pet April 13. May 5 at 11. Hill, Basinghall-st.
Morphew, Francis Codd, Colville-rd, Kensington-park, Bayswater, Clerk. Pet April 15. May 5 at 11. Hallward, Mitre-ct, Temple.
Porter, Thos Montolieu, Barrow-hill-pl, Regent's-park, Clerk at the War Office. Pet April 16. April 27 at 12. Chipperfield, Trinity-st, Southwark.
Rule, Edw, St Peter's-ter, Hammersmith, Clerk in the Admiralty Office. Pet April 15. April 27 at 12. Lloyd, Wood-st, Cheapside.
Rule, Chas Gerrard, Gravesend, Clerk in the Admiralty. Pet April 15. April 27 at 12. Lloyd, Wood-st, Cheapside.
Smith, Edw, Metcalfe-rd, Enfield-lock, Middlx, out of business. Pet April 11. May 5 at 2. Peverly, Coleman-st.
Smith, Stephen Randoll, John-st, Minories, Master Mariner. Pet April 14. May 5 at 11. Lawrence & Markby, Lincoln's-inn-fields.
Stratford, Geo, Mason's Arms-yard, Maddox-st, Regent's-circus, out of employ. Pet April 14 (for pau). May 5 at 11. Aldridge & Bromley.
Sutherland, John, Upper Fitzroy-st, Fitzroy-sq, Middlx, Tailor. Pet April 9. April 27 at 2. Holt, Quality-ct, Chancery-lane.
Vivian, John Robins, Russell-pl, Old Kent-rd, Coal Agent. Pet April 14. April 27 at 12. Howell, Cheapside.

To Surrender in the Country.

Aberdein, Saml, Hindolvestoe, Norfolk, Schoolmaster. Pet April 13. Aylsham, April 30 at 3. Drake, Dereham.
Anderson, John Watson, Hartlepool, Druggist. Pet April 10. Hartlepool, May 2 at 11. Bell, West Hartlepool.
Ashworth, Jas, Stacksteads, Lancaster, Builder. Pet April 12. Manch, April 29 at 12. Watson, Bury.
Ault, John, sen, Birm, Fancy Box Manufacturer. Pet April 13. Birm, April 27 at 12. East, Birm.
Barraclough, Wm, Fargate, Sheffield, News Agent. Adj April 14. Sheffield, May 2 at 10.
Bartlett, Sarah Playsted, Hampton-ter, Brighton, out of business. Pet April 15. Brighton, May 13 at 11. Goodman, Brighton.
Beard, Saml, Hednesford, Cannock, Stafford, Labourer. Pet. Walsall, April 27 at 12. Bowen, Stafford.
Bell, Jas, Market Rasen, Lincoln, Boot Maker. Pet April 16. Kingston-upon-Hull, April 29 at 12. Rhodes & Son, Market Rasen.
Blatherwick, Wm Christopher, Bracebridge, Lincoln, Labourer. Pet April 13. Lincoln, April 28 at 11. Brown & Son, Lincoln.
Bond, Edwin, Lichfield, Stafford, Maltster. Pet April 11. Birm, May 1 at 12. Harrison & Wood, Birm.
Bone, Thomas, St Mary's, Scilly, Cornwall, Draper. Pet April 13. Penzance, April 27 at 3. Millett, Penzance.
Brown, Wm, Sheffield, Steel Manufacturer. Adj April 14. Sheffield, May 2 at 10.
Carlisle, John, Brampton, Cumberland, Veterinary Surgeon. Pet April 15. Brampton, May 12 at 11. Forster, Brampton.
Carter, Saml, Birstal, York, Stonemason. Pet April 14. Bradford, May 7 at 10.30. Hill, Bradford.
Coldicott, Wm, Birm, Baker. Pet April 15. Birm, May 1 at 12. East, Birm.
Deakin, Jas, sen, & Edwin Deakin, Longton, Stoke-upon-Trent, Farmers. Pet April 11. Birm, May 6 at 11. Litchfield, Newcastle-under-Lyme, and James & Co, Birm.
Deighton, Geo, York, Cabinet Maker. Pet April 15. York, May 1 at 11. Mason, York.
Duggett, Christopher, Eglwysilan, Glamorgan, Catholic Priest. Pet April 16. Pontypridd, April 30 at 11. Goodere, Cardiff.
Dunn, Martin, jun, Gateshead, Builder. Pet March 28. Newcastle-upon-Tyne, April 28 at 11. Hoyle, Newcastle-on-Tyne.
Edwards, Thos, Plainsbrook, Yarpole, Hereford, out of business. Pet April 10. Leominster, April 29 at 11. Bedford, Leominster.
Gadd, Geo, Landport, Bookseller. Pet April 11. Portsmouth, April 27 at 11. Wallis, Portsmouth.
Godfrey, John, Swannington, Leicester, Builder. Pet April 14. Ashby-de-la-Zouch, April 29 at 11. Dewes, Ashby de-la-Zouch.
Gorle, Geo, Handsworth, Stafford, Plumber. Pet April 14. Birm, May 11 at 10. Marshall, Birm.
Haddon, Saml Jas, Christchurch, Southampton, Schoolmaster. Pet April 13. Christchurch, April 29 at 10. Sharp, Christchurch.
Hanson, John, Macclesfield, Joiner. Pet April 14. Macclesfield, April 28 at 11. Cooper, Congleton.
Harrison, Jas, York, Cattle Dealer. Pet April 15. York, May 1 at 11. Mason, York.
Hopkins, Wm, Llanferres, Denbigh, Bailiff. Pet April 14. Ruthin, April 30 at 10. Louis, Ruthin.
Hughes, Wm, Newark, Nottingham, out of business. Pet April 14. Newark, April 25 at 12. Heathcote, Nottingham.
Ingram, Sampson, Pensnett, Kingswinford, Stafford, Miner. Pet April 14. Stourbridge, June 1 at 10. Warmington, Dudley.
Jenkinson, Michael, Grantham, Lincoln, Shoemaker. Pet April 11. Grantham, April 27 at 11. Mallin, Grantham.
Jones, Thos, Lpool, Slater. Pet April 14. Lpool, April 29 at 11. Banner, Lpool.
Jones, Robt, Conway, Confectioner. Pet April 16. Lpool, April 29 at 12. Evans & Co, Lpool.
Lane, John, Newark, Tailor. Pet April 11. Newark, April 25 at 12. Ashley, Newark.
Lewis, James, Narberth, Pembroke, Tailor. Pet April 14. Narberth, May 5 at 12. Lascelles, Narberth.
Lewis, Reuben, Whitchurch, nr Cardiff, Beerseller. Pet April 15. Cardiff, May 2 at 11. Waldron, Cardiff.
Little, John, Hayton, Cumberland, Husbandman. Pet April 14. Brampton, May 12 at 11. Wannop, Carlisle.
Mann, Geo, Hulme, Butcher. Pet April 1. Manch, May 1 at 11. Swan, Manch.
Miller, Geo, Lechlade, Gloucester, Cattle Dealer. Adj April 13. Bristol, May 1 at 11. Brittan, Bristol.
Moakhouse, Geo, Castle-sowerby, Cumberland, Labourer. Pet April 10. Penrith, April 25 at 10. Branskill, Penrith.
Moreton, Saml, Birm, Anatomical Artist. Pet April 13. Birm, May 11 at 10. Marshall, Birm.
Morris, Ingram, Wednesbury, Labourer. Pet. Walsall, April 27 at 12. Jackson, Westbromwich.
Nixon, Wm, Ffynony Buth, Llanannon-in-Yale, Denbigh, Farmer. Pet April 14 (for pau). Ruthin, April 30 at 10. Louis, Ruthin.
Pank, Alex Culham, King's Lynn, Plumber. Pet April 13. King's Lynn, May 2 at 2. Wilkin, King's Lynn.
Pettet, Geo, Earlsoham, Suffolk, Machine Maker. Pet April 13. Framlingham, April 30 at 2. Shafto, Framlingham.
Prosser, Thos, Pershore, Worcester, Dealer in Fruit. Pet April 7. Pershore, April 28 at 11. Wilson, Worcester.
Ransom, Chas, Edington, Wilts. Pet April 13. Devizes, May 5 at 11. Bartrum, Bath.
Reed, John, Abbotts Bickington, Devon, Farmer. Pet April 13 (for pau). Exeter, April 28 at 10. Flood, Exeter.
Richardson, Joseph, Middlesbro', York, Printer. Adj April 14. Leeds, April 30 at 11.
Richmond, Chas, West Retford, Nottingham, Cooper. Pet April 15. East Retford, May 6 at 9. Denman, East Retford.
Smith, Robt Anthony, Gateshead, Beer Seller. Pet April 14. Gateshead, April 28 at 12. Joel, Newcastle-upon-Tyne.
Smith, Saml, Huddersfield, Listing Manufacturer. Pet April 1. Huddersfield, April 30 at 10. Learoyd, Huddersfield.
Stanton, Joseph, Great Bridge, Westbromwich, Shoemaker. Pet April 14. Dudley, April 30 at 11. Glover, Walsall.
Sutcliffe, Wm, Allison Sutcliffe, and Jas Whitaker, Bradford, Cotton Spinners. Pet April 13. Leeds, May 4 at 11. Hill, Bradford, and Simpson, Leeds.
Thomas, Hy, Hereford, Innkeeper. Adj April 10. Hereford, May 7 at 11. Bodenham, Hereford.
Town, Edward Hy John, Bradford, Ale Merchant. Pet April 13. Leeds, April 30 at 11. Simpson, Leeds.
Turberville, Giles, Birtingham, nr Pershore, Tailor. Pet April 7. Pershore, April 28 at 11. Wilson, Worcester.
Unsworth, John, Bolton, Tea Dealer. Pet April 15. Manch, May 1 at 12. Boote, Manchester.
Vernon, James, Leicester, Dealer in Musical Instruments. Pet April 9. Leicester, April 29 at 10. Spooner, Leicester.
Veysey, Robt, East Anstey, Devon, Farmer. Pet April 14. Southmolton, May 18 at 10. Shapland, South Molton.
Ward, John, Sutton in Ashfield, Nottingham, Bag Hosier. Pet April 14. Mansfield, May 11 at 10. Cursham, Mansfield.
Ward, John, Birm, Railway Porter. Pet April 14. Birm, May 11 at 10. East, Birm.
Wignall, Dennis, Everton, Tallow Chandler. Pet April 13. Lpool, April 28 at 3. Henry, Lpool.
Williams, Wm, Birkenhead, Victualler. Pet April 11. Lpool, April 29 at 11. Yates, Lpool.

TUESDAY, April 21, 1863.

To Surrender in London.

Baker, Edmund, Gravesend, Watchmaker. Pet April 17. May 4 at 12. Wilkinson & Co, Nicholas-lane.
Blaise, Theophile, Burlington-arcade, Middlx, Boot Maker. Pet April 15. May 7 at 12. Dod & Longstaff, Gt Portland-st.
Bonham, Hy, Frederick-pl, Hampstead-rd, Boot Maker. Pet April 10. May 12 at 1. Le Blanc & Co, New Bridge-st.
Bristow, Geo, Crown-st, Finsbury, Beerseller. Adj April 17. May 5 at 12. Aldridge & Bromley.
Brown, Edw John, Gertrude-st, Chelsea, Assistant to a Publican. Pet April 17. May 5 at 12. Munday, Essex-st.
Burns, Wm, Bury St Edmunds. Adj April 13. May 7 at 11. Aldridge.
Burton, Arthur Joseph, Castle-st, Falcon-sq, Warehouseman's Assistant. Pet April 17. May 4 at 1. Porter, Coleman-st.
Chichester, Geo Augustus Hamilton, Melton Mowbray, Leicester. Pet April 17. May 5 at 1. Lewis & Lewis, Ely-pl, Holborn.
Dabron, Geo, Chobham, Surrey, Farmer. Pet April 13. May 4 at 11. Lawrance & Co, Old Jewry-chambers, and Lovett, Guildford.
Davies, Chas Jas, Rufford's-buildings, High-st, Islington, out of business. Pet April 13 (for pau). May 4 at 11. Aldridge.
Dunn, Saml, Gotha-cottages, Coburg-rd, Old Kent-rd, Carpenter. Pet April 15. May 7 at 11. Marshall, Lincoln's-inn-fields.
Eeles, Edw, Long-acre, Middlx, out of business. Pet April 13. May 7 at 1. Munday, Essex-st, Strand.
Endean, John Pengelly, Upper Seymour-st, Euston-sq, out of business. Pet April 13 (for pau). May 4 at 1. Aldridge.
Farmborough, Wm, Rexeth, Harrow, Grocer. Pet April 15 (for pau). May 4 at 11. Aldridge.

Gaskin, Wm, Union-pl, Marylebone-rd, Ornamental Draughtsman. Pet April 17. May 5 at 12. Peverley, Coleman-st.
Gillions, Geo Thos, Gt Amwell, Hertford, Farmer. Pet April 16. may 4 at 11. Batchelor, Serle-st, Lincoln's-inn.
Gordon, Chas Hamilton, Burleigh-st, Strand, Lithographer. Pet April 17. May 7 at 12. Chidley, Old Jewry.
Holmes, Jas Nathan, Norfolk-st, Strand, Merchant. Pet April 17. May 5 at 1. Chidley, Old Jewry.
Impey, Thos, Guildford, Auctioneer. Pet April 13. May 5 at 1. Lawrance & Co, Old Jewry-chambers, agents for Lovett, Guildford.
Murch, Hy, Newland-st, Kensington, Tailor. Pet April 16. May 5 at 12. Olive, Portsmouth-st, Lincoln's-inn-fields.
Robinson, Chas, Montpelier-row, Twickenham, Jeweller. Pet April 17. May 4 at 2. Mardon, Newgate-st.
Saywell, Geo, Chenies-mews, Bedford-sq, Middlx, Carpenter. Pet April 14. May 4 at 1. Pook, Basinghall-st.
Smith, John Thos, Circus-st, nr Bryanstone-sq, Marylebone, Middlesex. Working Upholsterer. Pet April 20. May 4 at 1. Vaughan, Paddington-st, Marylebone.
Spurr, John Wm, Grange-rd, Bermondsey, Newsvendor. Pet April 16. May 4 at 11. Chipperfield, Trinity-st, Southwark.
Stewart, Archibald, St. Mary-le-Strand-pl, Old Kent-rd, Clerk. Pet April 16. May 4 at 12. Loe, Gray's-inn-sq.
Welch, Herbert Whitehall, Burney-st, Greenwich, Clerk in the Admiralty. Pet April 18. May 4 at 1. Harrison & Lewis, Old Jewry.
Wigginton, Jas, Stingo-lane, Marylebone, Grocer. Pet April 14. May 4 at 12. Lewis, Raymond-bldgs, Gray's-inn.
Young, Robt, Deptford, Ship Surveyor. Pet April 18. May 4 at 11. Norton & Co, Walbrook-house, Walbrook.
Young, Robt, George-st, Islington, Tailor. Pet April 13 (for pau). May 4 at 1. Aldridge.
Zerman, Francesco, Tillotson-pl, Waterloo-rd, Surrey, out of business. Pet April 15. May 4 at 12. Davies, Union-ct, Old Broad-st.

To Surrender in the Country.

Allan, Hy Turnbull, Newcastle-upon-Tyne, Coal Merchant. Pet April 17. Newcastle-upon-Tyne, May 5 at 12.30. Hodge & Harle, Newcastle-upon-Tyne.
Asbourn, Wm, jun, Lincoln, Tailor. Pet April 17. Lincoln, May 2 at 11. Brown & Son, Lincoln.
Barber, Hy, Halifax, Greengrocer. Pet April 18. Halifax, May 1. Holroyde, Halifax.
Badham, Fredk Colston, Bristol, Commission Agent. Pet April 15. Bristol, May 1 at 12. Clifton & Brooking.
Barraclough, Wm, Sheffield, News Agent. Adj April 14. Sheffield, May 2 at 10.
Bird, Isaac, Newton, Manch, Boatman. Pet April 14. Manch, May 4 at 9.30. Roberts, Manch.
Blunsom, Chas, Wellingborough, Innkeeper. Pet April 14. Wellingborough, April 29 at 10.30. White, Northampton.
Brown, Wm, Sheffield, Steel Manufacturer. Adj April 14. Sheffield, May 2 at 10.
Butler, Jas, Ospringe, Kent, Farm Bailiff. Pet April 15. Faversham, May 6 at 12. Bathurst & Phillips, Faversham.
Collins, Matthew, Hereford, Butcher. Pet April 16. Hereford, May 7 at 12. Garrold, Hereford.
Cooper, Geo, Bishop Auckland, Butcher. Pet April 15. Bishop Auckland, May 6 at 10. Thornton, Bishop Auckland.
Cooper, Richd Fredk, Birm, Tool Maker. Pet April 17. Birm, May 11 at 10. Powell & Son, Birm.
Corbett, Hy, Harborne, Stafford, Charcoal Dealer. Pet April 16. Birm, May 11 at 10. Smith, Birm.
Dorrington, Robt Alf, Southport, Woollen Merchant. Pet April 20. Lpool, May 7 at 11. Keightley & Banning, Lpool.
Down, Edw, Ancoats, Manch. Pet March 31 (for pau). Manch, May 4 at 9.30. Gardner, Manch.
Fay, Michael, Lpool, Car Proprietor. Adj April 16. Lpool, May 5 at 11.
Flak, Wm, sen, Ipswich, Innkeeper. Pet April 15. Ipswich, April 30 at 11. Moore, Ipswich.
Fitton, John Hy, Everton, nr Liverpool. Pet April 18. Manch, May 18 at 9.30. Thornley, Everton.
France, John, Slaithwaite, York, Grocer. Pet April 16. Huddersfield, May 7 at 10. Sykes, Huddersfield.
Gledhill, Christopher, Park-gate, nr Huddersfield, Tailor. Adj April 15. Huddersfield, May 7 at 10. Haigh, Huddersfield.
Gloyn, Robt, Penryn, Accountant. Pet April 18. Exeter, May 6 at 12. Flood, Exeter.
Granger, Thos, Hartlepool, Manufacturer of Soda Water. Pet March 26. Newcastle-upon-Tyne, May 7 at 12.30. Brignal, Durham.
Gray, John, Upper Kirby-le-Soken, Essex, Farm Labourer. Pet March 16. Harwich, May 5 at 3. Whitcombe, Colchester.
Harman, Wm, Macclesfield, Silk Manufacturer. Pet April 16. Manch, May 4 at 11. Higson & Robinson, Manch.
Hawkins, Hy, Bristol, Victualler. Pet April 14. Bristol, May 1 at 12. Shipton.
Hawkins, Wm Hy, Aylesbury, Grocer. Pet April 13. Aylesbury, May 4 at 10. Parrots, Aylesbury.
Hayes, John Murray, Gillingham, Kent, Bricklayer. Pet April 17. Rochester, May 5 at 3. Hayward, Rochester.
Heyes, Geo, Manch, Plumber and Glazier. Pet April 18. Manch, May 18 at 9.30. Allwood, Manch.
Homfray, Saml Geo, Loughor and Swansea, Colliery Proprietor. Pet April 16. Bristol, May 1 at 11. Abbot & Co, Bristol.
Hutchinson, Geo, Newcastle-upon-Tyne, Grocer. Pet April 16. Newcastle-upon-Tyne, May 5 at 12. Hodge & Harle, Newcastle-upon-Tyne.
Jackson, Fredk, Aspley Guise, Bedford, Builder. Pet April 17. Leighton Buzzard, May 11 at 12. Conquest, Bedford.
Jackson, Thos, Saddleworth, York, Provision Dealer. Pet April 14. Saddleworth, May 12 at 11. Rawlinson, Manch.
Knowles, Geo, Brampton, nr Chesterfield, Coal Master. Pet April 17. Sheffield, May 9 at 10. Fretson, Sheffield.
Lowe, Wm, Derby, out of business. Adj April 15. Derby, May 5 at 12. Leech, Derby.
Malcolm, Fredk, Stoke-upon-Trent, Earthenware Manufacturer. Pet April 17. Stoke-upon-Trent, May 6 at 11. Smith, Birm.
Martin, Wm, Ratcliffe-upon-Trent, Surgeon. Pet April 17. Nottingham, May 6 at 11. Hopkinson, Nottingham.
Murgatroyd, Moses, Halifax, Joiner. Pet April 15. Rochdale, May 6 at 11. Hill, Bradford.
Nash, Chas, Lpool, Boot Dealer. Pet April 13. Lpool, May 5 at 11. Evans & Co, Lpool.
Nickolls, Ann, Bath, Victualler. Pet April 17. Bristol, May 1 at 11. Wilton, Bath, and Henderson, Bristol.
Payne, Hy, Weston-super-Mare, Coal Merchant. Adj April 9. Weston-super-Mare, May 6 at 11. Smith & Raby.
Priestley, Nancy, Allerton, nr Bradford, Innkeeper. Adj April 14. Bradford, May 7 at 10.30. Haigh, Huddersfield.
Rees, Warriet, Dowlais, Merthyr Tydfil, Grocer. Pet April 1. Bristol, May 1 at 11. Simons & Plews, Merthyr Tydfil, and Henderson, Bristol.
Reid, Robt, Lpool, Victualler. Adj April 16. Lpool, May 5 at 11.
Renwick, John, Berwick-upon-Tweed, Dealer in China. Pet April 16. Newcastle-upon-Tyne, May 5 at 12. Beckinton, Newcastle-upon-Tyne.
Roberts, Edwin, Whitchurch, Salop. Pet April 16. Birm, May 4 at 12. Clay, Whitchurch, and Hodgson & Co, Birm.
Robinson, John, Hulme, Lancaster, Builder. Pet April 17. Salford, May 9 at 9.30. Eltoft, Manch.
Senior, Joss, Kickburton, York, Victualler. Pet April 17. Huddersfield, May 7 at 10. Freeman, Huddersfield.
Sheate, John, Corscombe Mills, Cattistock, Dorsetshire, Foreman to a Miller. Pet April 17. Crewkerne, May 2 at 1. Marshall, Hatton-gdn.
Taylor, Edmund, Rowbarton, nr Taunton, no business. Pet April 14. Wellington, April 27 at 12. Taunton, Taunton.
Wade, Thos, Leeds, Comm Agent. Adj April 14. Leeds, May 4 at 11.
Warren, Jas, South Benham, Somerset, Farmer. Pet April 18. Wincanton, May 4 at 12. Balch, Bruton.
Weedon, Thos, Chalfont St Giles, Bucks, out of business. Pet April 15. Chesham, May 6 at 3. Munday, Essex-st, London.
Whitaker, Jeremiah Ridge, Shipley, Bradford, Tailor. Pet April 17. Bradford, May 7 at 10.30. Cater, Bradford.
Wilson, Hy Coventry, Manch. Pet March 31 (for pau). Manch, May 4 at 9.30. Gardner, Manch.
Woolstencroft, John, Bursiem, Chemist. Pet April 10. Birm, May 8 at 12. Whitehouse, Wolverhampton, and James & Co, Birm.

BANKRUPTCIES ANNULLED.

FRIDAY, April 17, 1863.

Hood, Saml. 68, Upper Thamas-st, Iron Founder. April 17.
Timewell, Eliezer, Kirkdale, Cart Owner. April 13.

TUESDAY, April 21, 1863.

Stringer, John, Kingston-upon-Hull, Draper. March 25.

BANKRUPTCIES IN IRELAND.

Dowling, John M'Coughtry, Belfast, Druggist. To surr April 28 & May 12.
Ellis, Arthur, Cavan, Grocer. To surr April 28 and May 12.
Macoun, George, Belfast, Merchant. To surr April 28 and May 12.
Malcomson, Samuel, Belfast, Tallow Chandler. To surr April 28 & May 12.
Malcomson, Thomas, Belfast and Antrim, Druggist. To surr May 1 & 26.
Sinton, Thomas, Dungannon, Baker. To surr May 1 and 15.
Sutherland, Hugh, Queen's Arms Hotel, Belfast, Hotel Proprietor. To surr April 28 and May 15.

MESSRS. E. & H. LUMLEY, AUCTIONEERS and ESTATE AGENTS, No. 67, Chancery-lane, London, beg to call the attention of all interested in the Buying, Selling, Renting, or Purchasing of Land and Houses, to their "FREE PROPERTY REGISTER," published on the first day of every month, and containing the particulars of many hundred Landed Estates—Farms, Town and Country Residences, Freehold and Leasehold Investments, and Properties generally for Disposal.

OWNERS WISHING to SELL or LET will, in most instances, find an immediate customer by forwarding the particulars to Messrs. LUMLEY. No charge is incurred unless a tenant or purchaser is introduced, and then but a very moderate commission.

PERSONS WISHING to RENT or PURCHASE should consult the "REGISTER," which at all times offers an immense selection of properties, and may be obtained, gratis, at the principal Railway Book Stalls and at the

AUCTION and ESTATE OFFICES, 67, Chancery-lane, London.

Freehold Estate, offering a secure and improving Investment, with large Sporting Rights, in the county of Wilts.

MESSRS. DANIEL SMITH, SON, & OAKLEY have received instructions from the Trustees and Executors of the lately deceased Proprietor to offer for SALE by AUCTION, at the MART, near the Bank of England, on WEDNESDAY, APRIL 29th, at TWELVE o'clock, in Five Lots, 697a. 1r. 26p. of FREEHOLD LAND, of which about 510 acres are wood, with a small house and stable in hand, and the residue arable and pasture, with farm-house and premises, and double cottage, in two holdings, let to respectable tenants at a gross rental of £290 per annum. The property is known as the Lydiard Woods, in the parishes of Lydiard Tregoze, Lydiard Millicent, and Purton, in the county of Wilts, and within three miles of the Wootton Bassett Station, and seven miles from Swindon Station, on the Great Western Railway, and three miles from Purton Station, on the Cheltenham and Great Western Union Railway, and there are two lines of canal in the vicinity. The woods are well planted with coppice and oak timber, approached by good roads, and are well adapted for a sound investment, being also one of the best small estates for preserving game that can be found. The lots will be as follows:—

Lot 1. Home-wood and arable lands, together 61a. 0r. 31p.
Lot 2. Webb's and plantation woods, containing 298a. 2r. 23p.
Lot 3. Poundwood, 10a. 0r. 14p.
Lot 4. Flaxland-wood and arable land, 215a. 2r. 25p.
Lot 5. Brockhurst-wood, 43a. 0r. 15p., in Purton parish.

A considerable profit might be realised by clearing more of the woods and cultivating the land.

Particulars may be had of Messrs. GOLDNEY, KEARY, & RENNY, Solicitors, Chippenham; at the Old Oak inn, Wootton Bassett; Queen's Hotel, Swindon Station; or of Messrs. DANIEL SMITH, SON, & OAKLEY, Land Agents and Surveyors, 10, Waterloo-place, Pall-mall, S.W.